

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Regular Meeting

October 14, 2009

Chairman Cathleen Hall called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:00 p.m. in the Town Council Chambers at the Newington Town Hall, 131 Cedar Street, Newington, Connecticut

I. ROLL CALL

Commissioners Present

Commissioner Casasanta
Commissioner Ganley
Chairman Hall
Commissioner Kornichuk
Commissioner Pane
Commissioner Pruet
Commissioner Aieta
Commissioner Camerota
Commissioner Lenares

Commissioners Absent

Commissioner Schatz

Staff Present

Ed Meehan, Town Planner

Commissioner Camerota was seated for Commissioner Schatz.

II. PUBLIC HEARINGS

- A. PETITION 25-09 – Assessor Map 11-335, 00A, East Cedar Street (North Side), 29 acre vacant parcel approximately 730' west of the intersection of East Cedar and Russell Road, Marcap Co., LLC, owner, Toll Brothers, Inc., 53 Church Hill Road, Newtown, CT 06460, applicant, represented by Attorney Thomas J. Regan, Brown Rudnick, LLP, 185 Asylum Street, 38th Floor, Hartford, CT 06103-3402 request for Zone Map Amendment CD Commercial Development District to R-12 Residential District.**

Chairman Hall: If the applicant is here would you come forward state your name and address for the record.

Attorney Regan: Thank you Madam Chairman. My name is Tom Regan, I'm a partner in the law firm of Brown Rudnick, LLP, City Place I, 185 Asylum Street, Hartford, Connecticut. I'm here tonight on behalf of the applicant, Toll Brothers, Inc., one of the nations oldest home builders. We're appearing this evening to request a zone change for an undeveloped 28.5 acre property on East Cedar Street. The property is currently zoned CD, we are requesting to have the property rezoned to an R-12. The application before you, as I stated at the last meeting, and I won't repeat by entire statement, is very similar to the application that we were here three years ago for, as the property formerly known as the Hartford Drive-In, now known as Newington Ridge. Very similar topography, similar commercial district that we asked and were granted a re-zone to

R-12 and have since developed. This property is very similar in many ways to the old drive-in property in many ways as far as topography goes, and as challenges to developing it and access go, and we believe the best method for developing this property in the future and keeping it in harmony with the current topography and land layout in the area is to do a similar project. At this point, I'm going to ask John Mancini, who is our project engineer to come up and walk everybody through exactly the property that we are talking about. Since the last meeting we have seen a lot of information in newspapers and otherwise and a lot of it is misinformation on exactly what property we are and aren't talking about rezoning and potentially developing, so I want John to carefully walk through that with everybody.

John Mancini: Good evening, Madam Chairman, Members of the Commission, Members of the Public. My name is John Mancini, I'm owner of BL Companies, we're located at 355 Research Parkway in Meriden, Connecticut, I'm a principal engineer there. I'm going to start with the large map here, and what this is, is a one inch is equal to one hundred scale topographic map. It's hard to see, but the white lines depict ten foot contour. I'm going to walk you through this map, and then I'm going to walk you through the map that we specifically submitted with our application. The site that we are looking for the change to is this area that is depicted in yellow in the lower portion of this map. Approximately a third of the site, as you see has been disturbed previously and that is depicted by the non-wooded tree line shaded. Now, I'll go back to this map in a moment, but specifically walk through the property, I'm referring to a map that was part of the application and we refer to our project as the site, and it's bounded by, on the south by Route 175, along the lower edge here, running essentially east to west, a corner of our property to the west is the corner of Mountain Road and what is known as the old right of way, or Old Highway, which runs along the northerly property line of our property. Now what I want to do is to point out to you what is going on, on the site in terms of existing features that certainly the owner of the property are aware of, and then perhaps other people who have been fortunate to walk the property or you know, enjoy the rest of the land around it, and have stumbled onto this privately owned parcel, I'll just point out some of the features.

There is an existing trail that runs inside of the Old Highway. Our property is south of that point, so, important to note that the existing trail, we don't own that, that's in the town right of way, this right of way is owned by the town, and our property is south of that. Also, we are south and east of the existing water tower, so when you come around this corner on 175 and you look up at the property and you see the tower, you see the beautiful wooded hilltop, we don't own it. We're not developing on it, we're no where near that. We are just above the rock vertical face that exists along the road. When you walk along this edge and you come up here, this area has been disturbed because there is an existing sixteen inch water main that is in this old right of way, okay, and then a trail was developed. As I come around going from basically from west to east on the map, I get to what is our northeasterly corner and for order of reference, where the existing Humane Society building which is a building on this map so I'm using it for reference, our property line is approximately 320 feet to the west of the furthest point or the closest point to our property from the building. Then in this area, between that building, the Humane Society building and our property is wetlands that also extend approximately a hundred feet onto our site. So because of the nature of our physical boundaries, if we were to have this approval occur and we move forward with a site plan approval, it is very possible that the closest point that we could possibly be in terms of an open space buffer is somewhere in the range of 500 feet, because our road would have to go in this manner, beyond the wetland buffer, beyond the wetlands and then of course because our property jogs, we can't get back into that area of wetlands, so very important to understand where we are developing.

Another very important feature is that there is an existing ridge on our property that is located in this area, and a second ridge located in this area. This ridge here, the entire ridge and west is approximately seven to seven and a half acres, and that is going to be conserved as open space. So, the piece that we are developing on is largely the piece that has already been mined and operated, and when you look at maps going back fifty plus years, you always see, on aerial

photography, this type of disturbance on this parcel, so it's not like it was just ten years ago that this parcel was disturbed.

Below us, and to the south are some additional state land owned lands, which was the old right of way for the old road before they straightened it out and cut the right of way in, and as a result of that project, the state has only left this site with approximately sixty feet of frontage that you can actually have an access point to, so this is a limited access property frontage, and the driveway that exists today, which is a path that goes into the development, is essentially the place where the site is accessed.

So, with that being said, and I believe at the last hearing, either it was an attorney, or someone on the Commission asked about the capacity for water and sewer. So I would like to address that right now, and Tom, if you...okay, we have already turned them in, but it's basically a will serve letter that came from MDC, so I'm just going to walk through, on this map where the utility is and what has to be done. I'll start with sewer. Sewer currently comes up East Cedar Street and stops approximately 150 feet short of our essentially northwest, southwest property line, and again, since we can only access the first sixty feet essentially a two hundred foot main extension would have to occur. So, what the letter says is that there is no main in front of our property, and that is technically correct, it needs to be extended two hundred feet. But there is capacity in the eight inch line that runs down East Cedar Street and flows into the Jordan Brook trunk line. So that's where this, Jordan Lane, sorry, trunk line, and so from a sewer stand point, we, the applicant if we were to move off of this point and go into specific site plan approval, where those engineering details would have to be met, we would be extending the main two hundred feet and then extending it into our private or public street, whatever it becomes.

Secondly, the question of water came up and with water, there is an existing water main that runs down Mountain Road. It essentially takes a hard turn to the east and runs up the Old Highway, first to the water tank, out of the water tank and then through and tying into Russell. Now they've bucked grade, in other words, they have gone against the grade as they are coming up this hill, so the rough high point on our property is that sort of mid-point of our site, and we would, as a result of the pressure loss, the capacity is in the water main, for the pressure loss, we would have to put a booster pump in, in order to meet the pressure demands for fire protection, hydrants and so on, for our development, but again, we would be willing to do that. I just wanted to, we didn't have this the last time, and the question was asked, it was a good question, and I just wanted to make sure we addressed.

Now what I would like to do is just take a moment to walk through a board that we have prepared, and we would be happy to provide the Commission members with a copy of this exhibit, or perhaps leave the exhibit itself, and what this does is, purely just try to respect some of the controls that would occur when we go to develop this land. The first thing is impervious areas. The proposed development would have roof and pavement areas of approximately four to five acres. Other commercial developments that could go on this parcel that either, looking at the project that was denied in 2006, or a commercial development, medical office complex, essentially what happens is, when you go from the current use, which is commercial to residential there is a lot of net net benefits in terms of flexible, sensitive, really thoughtful design on the project. Excavation for instance, this project had a ridiculous amount of earth work that was being removed for its need, but what this stat shows is that when we try to develop this land for commercial because of road gradients where the maximum grade to a commercial development is only six percent, I spoke to you about the only place that this site can be legally accessed because the rest is non-accessed, as it stands today and it's not easy to break the non-access line with the DOT. Where residential is ten percent, so if you just think about it, if you came off the road and you're only able to go six percent, you're only going to rise so far before you have to flatten the site. With residential design we could, using up to ten percent natural grade which is a considerable difference, we could place our buildings in a scenario where much, much smaller footprint, you know a fraction of the footprint of a commercial development, place on the high side, the low side, walk out basements, drive under garages, you've seen it, you've seen the development and Tom spoke a little bit to Newington Ridge, where the development steps down

the gradient and it does so tastefully and the same could happen on this site with sensitivity to the grade that you have to work with. Also from other things, from a traffic peak hour trip generation standpoint, you know, as zoned today, very intensive uses could go here from a traffic standpoint. Again, the access would be to a very busy road, East Cedar Street. Storm water quality, I mean, the design criteria that we have to design to from a water quality standpoint is the first flush, the first inch, to two inches of runoff, well under development that is commercial the amount of runoff that would come off of the flat roof, the big flat parking area that are needed for that far exceeds, in some cases, forty to sixty percent higher amount of first flush that would have to be treated. Storm water quality, when you are doing residential, and we have seen it, look at a lot of the developments that we all like, you could do rain gardens, you could do grass swales, you could take your roof drains and put it directly in the ground, you can't do that with commercial development. Also, open space, you know, for our type of development we're dedicating, the minimum is 3.2 acres, I spoke to the area that is from the ridge to the west that is over seven acres that would be dedicated to open space. There is no need to go beyond that ridge. Under these uses, there is no requirement for, and not every application that comes forward under the commercial development would need special permit exception. It could be site plan approval, so depending on how you approach a project on this, from a commercial standpoint, there could be a well thought out commercial development that is sensible, but it is still going to be much more aggressive on the lay of the land. It just doesn't make any sense to think that a commercial development could have less impact on this land than residential, just not possible. So, Madam Chair, with that I'd like to just conclude by saying at this point I believe that we're going to have our planner come up and speak a little bit more about some of the point that we just raised. Thank you.

Richard Harroll: Good evening, Madam Chairman, Commission members and members of the public. My name is Ricahrd Harroll, I'm a principle with the planning firm of Harroll, Mickalowski Associates. John has gone through, as engineers do many of the details, as a planner, I'm going to be a little bit more general and a little bit briefer. I think we want to move ahead with tonight's hearing so in that regard, at the last session, on the 23rd of September I submitted a full report which is on file and at that time I went though the report in detail, I'm just going to hit on a couple of the high lights.

First of all, one thing I want to mention also, in addition John pointed out the boundaries of the project site, the scenic outlook area that many people in the community appreciate is also off our site. It's to the north of the site, it wouldn't be impacted by the proposal that we are discussing tonight. One thing that is important. There is really no established land use pattern in this area. As a planner, you say, what is going on in the area, and the reality is, as we all know, there is quite a bit of undeveloped property, property under the ownership of the State of Connecticut which probably in the future will change in use, so establishment of a land use pattern here is going to be a process that is going to take place over a number of years. I know in the Plan of Conservation and Development update that is underway, which will be the subject of a hearing later on, this area in fact is an area left for discussion in terms of the future. Meaning the area, not our site, but further to the north. So what I'm going to focus on, to re-emphasize the natural resource aspect, and interestingly, the Plan of Conservation and Development currently in effect in the town which was approved in 1995 shows in it's natural resource plan that basically the natural resources cited which were ridge lines as well as wetland areas, parks, scenic vista and trails, again, all off our site. Were not ever considered as part of this site, and in fact the Plan of Conservation and Development currently in effect designates this site as a business use and John has gone through the CD regulations that reflect that.

In the current plan, sorry, the plan that is under discussion, also that contains extensive maps of various things, one of which is the land use natural resource plan actually, and in that plan again, it shows the two natural resources in this area, one being the steep slopes, the ridge line, that area is either north of our site, or in the western portion which would be open space, and a large wetland area which actually is mostly on the Humane Society site and not on our site. Those

same features are showing in the State Plan of Conservation and Development which covers again the whole State of Connecticut. Interestingly again, those same features are shown in the same location as in your own plan that is under discussion being off the site, so I guess why I'm going though this is historically in terms of planning and land use, this site has always been considered different than much of the surrounding area, primarily to the north and to the western portion of this site. What is being proposed, subject to tonight's discussion respects that in that development of the site would not impact those natural features that the community cherishes. Also, at the last session of the hearing, there was a letter submitted by Attorney Critton on behalf of the Humane Society that raised five points about the consistency of this proposed plan and some other points, I'm not going to go through those in detail, I'm going to submit for the record copies of my response letter to that. Last thing I should point out is that many of the comments in the letter that was submitted by the Attorney point to some of these same topics that have been discussed. Buffers, impact on the topography, a variety of things, the application, the zone change being discussed tonight if approved, the concept plan would require what is called a special exception and a special exception, the Zoning commission, the Planning and Zoning Commission would then have to go through a very detailed public hearing process at which time all of those questions would also be addressed, very much in detail. The current CD zone, the uses in a CD zone are, in planners language, are as of right, meaning that just would have to submit a site plan, and there would be much less oversight and review and requirements able to be imposed by the Commission, representing the community, so I think that's an important concept to keep in mind. With that, I'll conclude my testimony. Thank you.

Chairman Hall: Thank you.

Attorney Regan: If I might Madam Chair, I just want to highlight something that Dick pointed out which I didn't highlight in my opening statement, but that I want to make clear. The application that we are here for tonight is for a zone change on the property that John described in great detail. With our application, we submitted a concept plan that could go in this type of zone, but I want to be clear that that's not the subject of tonight's hearing, that's simply a concept plan, done more to show what kind of open space could be preserved under a R-12 zone than it is for a plan. It's not the plan that's before the Commission, it's not the plan that's being approved. All that is before the Commission is merely a request for a zone change from the commercial CD district to an R-12. I wanted to highlight that point, I believe I did it at the first hearing, I just wanted to make sure I did it tonight. Also with me tonight in addition to John and Dick are representatives of Toll Brothers, Greg Kamalewski is the division president, and Chris Bennett who is the division vice-president is here as well, and Adam Hollenback who is the project manager at Newington Ridge and I'd like to bring Adam up briefly to enter one more piece of information for the record.

Adam Hollenback: Good evening, my name is Adam Hollenback, with Toll Brothers, located at 53 Church Hill Road in Newtown Connecticut 06470. I'm the project manager for Toll Brothers, I was responsible for the community known as Newington Ridge which was the old Hartford Drive In located in Newington. I was there from the very beginning of the community, I'm still responsible for it, through its completion, I would also be the project manager on site for any future community that Toll Brothers may decide to develop on this parcel of property. What I do have here are letters from home owners who live at Newington Ridge that were speaking out in favor of Toll Brothers and just wanted to reach out and talk about how satisfied they were with their experience at Newington Ridge. I'll just read their names and addresses and I'll give copies to the Commission for them to look through if that's okay, Madam Chair.

Chairman Hall: It is, again we are talking about just a zone change, not any kind of development, so I want to be sure that everybody understands that, we're not talking about a specific development tonight, it's a change from a CD zone to residential zone, that is all we are talking about tonight.

Adam Hollenback: Understood, I'll just read the names then. Brian and Barbara Vendetti, 18 Bogart Lane, Donald Forrest, 12 Harlow Drive, John Natale, 15 Bogart Lane, Dick and Terri Darrow, 29 Chaplin Street, Kerri Granoscia, 3 Chaplin Street, Carolyn Reckert, 35 Chaplin Street, Tagan McGowen, 10 Harlow Drive and Tracy Tate at 6 Harlow Drive. Thank you.

Attorney Regan: Madam Chair, at this point that concludes our summary of the application and the presentation at the initial hearing, we'll take any questions if the Commission has any at this time.

Commissioner Ganley: Could you pull down that status board once again please and just take a look at the map. Only because I can't see from here and I suspect that there might be some in the audience that might be having the same problem, the boundary lines on that map, are they the standard pencil thin surveyors line?

John Mancini: The boundary lines depicted on this map are the really thick, thick, thick black bold lines.

Commissioner Ganley: So if anyone wished to come up, they would have an idea of where the boundary line is relative to the reference points you made, trails, Humane Society, the tower, etc..

John Mancini: Yes, and in addition, I highlighted the best I could through the tree lines the trail through the Old Highway with a marker and also we pointed to the tower, the actual water tank tower right in this location, and then we indicate on this map, because of the yellow boundary that this viewing point of ridge line that everyone enjoys is well up in this area. Again, this is one inch equals one hundred scale map, it's well beyond the property, and I think the best way to understand this is as I said, as you are coming up East Cedar Street and you go around the bend, you know, when you look up you do see the water tank, but basically everything that you are seeing beyond the water tank, we don't own it. It's not part of this development. You are looking like this, beyond our property, we own everything to the south and east of it.

Commissioner Ganley: I understand but the reason that I raised the issue is that it is possible that somebody from the audience, looking at the map, might not be able to properly reference the property line versus the reference points that you made.

John Mancini: Got you. The property line is the heaviest line on this drawing.

Chairman Hall: Thank you. Questions?

Commissioner Pane: Just a comment. I had concerns last meeting Madam Chairman. The applicant had been talking about quoting things from our 1995 Plan of Development and quoting things from our Plan of Development, our future Plan of Development which isn't even finished yet. I'm just extremely concerned that this applicant has come in front of us for this zone change at this time, when we haven't even finished our Plan of Development for 2010 to 2020. I think that as Commissioners we're compromising ourselves having both of these things on the agenda at the same time. I think that the applicant should possibly think about withdrawing this without prejudice, I think they should withdraw this without prejudice until we come up with our Plan of Development. Our next public hearing is on our Plan of Development and I feel very uncomfortable with this. We haven't decided anything on several critical pieces of property in this area and one of the critical pieces was this property, and there were several others. Commissioner Aieta brought this up about a month and a half ago, and we were promised the chance to talk about all of these things, all these properties and how they were going to come into our development for the future and I think the Commissioners should think about this, think about

this hard because we need to have our Plan of Development finished before we can even talk about this property.

One of the other things I just bring up and there is an appearance of spot zoning on the property, they are coming in, the applicant is only coming in for a change of zone on one piece of property. Normally when an applicant comes in, they look at several pieces of property and they change the zone, not only to benefit themselves, but to benefit other property owners, so I have to question this change of zone on one single piece of property, there is an appearance of spot zoning. Thank you, Madam Chairman.

Chairman Hall: Thank you. Any further questions at this time before we go to the public? Again, this evening is the presentation for the request for zone change. There will be no decision made tonight. I want to be perfectly clear about that first of all, so whether we take this in conjunction with another petition, or by itself, the petitioner is here tonight to present something before this Commission. We are here to listen. We are here to listen to the public. That is all we are here to do. At this time, anyone wishing to speak in favor of the petition please come forward to the podium, you have two minutes to present your thoughts. Anyone wishing to come forward, state your name and address for the record, please.

Ken Kelly, 365 East Cedar Street: I have a direct view of the property for the last 27 years. I have seen many things go on over there, from stolen cars, stripped, burned, people going in there and getting injured, I saw one fellow come out bleeding profusely, and called 911, he was driving a motorcycle illegally, many cars going in there, dropping off packages, with another car following it shortly afterwards, I don't think they work for UPS or FedEx, but, something being delivered and picked up. I think there is a good crime area in there. I have problems with my property with cars being stripped and things because of the traffic across the street and I would like to see something done with it. Obviously the town doesn't desire to buy it, a residential area would hopefully stop all the problems. Also with the traffic light that will be put up there will slow the traffic down. I've had probably twenty or twenty-five accidents in my driveway, fortunately none seriously. The Church next door has had many accidents, the Health Club has many accidents, motorcycles, and have had two deaths there. I think this would solve all the problems, slow everything down. Thank you.

Chairman Hall: Anyone else wishing to speak in favor of the proposal come forward, state your name and address for the record. Anyone wishing to speak in opposition to the proposal, come forward, state your name and address for the record.

Matt Rinelli: Good evening, Madam Chairwoman, my name is Matt Rinelli from Shipman and Goodwin and I'm here on behalf of the Connecticut Humane Society and it's President Richard Johnston who is here with us this evening. Madam Chairwoman, I have some presentation materials and with your permission I'll pass those out.

Before I get into my prepared remarks, I'd like to just comment. I realize that I only have three minutes but I'd like to comment on the applicant's presentation and make something clear. The first two parts of the presentation focused a lot on representations about open space and about location of development and style of development and placement of units and then the attorney for the applicant got up and said, remember, this is a concept plan, so we are just talking conceptually, and that's a point that this Commission has to remember. Those representations mean nothing, in fact, if the property is re-zoned, the applicant does have the option of an as of right development under the R-12 zone, at 1200 square feet for each lot. If they want to go to the higher density, the 8000, that is when they need a special exception, so it is very important not to be led astray by the concept plan that is held out. All those promises, if you will, in the plan will not apply if this comes before you as a site plan application as of right, and many of them may not apply if it comes before you as a special permit. So, that said, the application before you is for a zone change and it's important to keep in mind that no property owner is entitled to a zone

change. This Commission gets to determine, set the map, and it does it to create a fabric of the town, and if you look, I would disagree with their Planner, there is a pattern if you look at that map, and it's colored coded, you can see, the pattern is that there is no residential use in this block of properties. It is simply put, a refuge for commercial and industrial use, and that is both intentional, good planning and good for attracting businesses to Newington, and Newington has a limited supply of such property. The standard that is applied, you are acting in your legislative capacity. In your legislative capacity you have your broadest discretion. The first prong of the test is, is what you are doing reasonably related to the police powers, and in general, most zone changes are, although as Commissioner Pane points out, the specter of spot zoning will raise questions with respect to this property, because the benefits are for only one owner and that is one of the tests, it's called spot zoning, the size of the property is not really what determines it, it's where the benefits flow, and here they flow to one owner.

The second part of the zone change standard is, is it in accordance with your comprehensive plan. That's your zoning regulations and your zoning map. This proposal is not in accordance with those plans. As a guidance document you also have your POCD, your Plan of Conservation and Development. The operative plan is your current plan. I know that you have a new draft under consideration, but until it is adopted, this is the operative plan, and again, I disagree with their Planner, what was left out of his presentation dwarfs what was in it. If you look at the letter that we submitted at the last hearing, there is a detailed listing of ways in which re-zoning this to residential is inconsistent with the Plan. The Plan specifically calls for the protection of Cedar Mountain, and it also calls for preserving the CD Zones as attractive homes for businesses because there are very few of them left, so, those are the standards. Again, with respect to the application, no zone change is warranted here. First, the Commission has issued past denials of applications that are strikingly similar. The 2006 petition, although styled as an amendment to the CD zone allowed essentially the same use as they are asking for here. That petition asked for 8,000 square foot residential development, that's high density, I'm sorry, 7500, so 500 square feet less, residential development with a special permit, so if anything, and this Commission denied it, so if anything, the current proposal leaves this Commission with less control, not more, than the 2006 application which you denied because this applicant could come in with either an as of right or a special permit application. The Commission should not reverse themselves unless there's a substantial change in circumstances. Again, there has been none, the applicant has offered none, the site is the same, the conditions on the site are the same, there is simply nothing to warrant re-visiting your 2006 decision.

Zoning considerations, as I indicated in my letter, the CD Zone is a buffer. The Capital Regional Planning Agency commented on the 2006 application which, like this one tried to interject residential development into an area that has been historically business and they said, this is not advisable, this is a refuge for business. There are certain things businesses do, hours of operation, conduct that simply aren't compatible and to put the two uses next to each other, cheek and jowl is to invite lower quality life on the residential side, confinement on the business side, and conflict in your zoning office when people come in and complain, and frankly, candidly, legal issues for the businesses that reside there. And frankly, consideration of future businesses, whether they want to look there for fear of legal issues such as nuisance claims.

The third thing, and I know I'm running out of time, natural resources. Cedar Mountain is a unique natural resource and in many ways a calling card or a gateway to Newington. I drove in today to review the file and driving out I saw Cedar Mountain on the way and it is on fire with fall colors, and that alone is a testament to what would be lost if this property is re-zoned and developed in any matter compatible with the concept plans.

Your Conservation Commission also submitted a letter in the spring, which I have included, which should be included in the file, regarding Toll Brothers prior application which was withdrawn. In that letter they expressed serious concerns about the density. They indicated that there is nothing even in the draft POCD that calls for high density residential development on this site. They indicated in a previous residential application on this site, they found that there would be significant negative impacts to the wetlands, the sensitive wetlands on the site. You are not the

Wetlands Commission, but these are zoning considerations in that they call into question the appropriateness of this property for the intended use to which you would be zoning it, because once you zone it, to R-12, if you do, there is a presumption that it is appropriate for that and there have been recent Supreme Court cases on this, so you will then be constrained from saying, well, it's really not appropriate for R-12 use. That ship will have sailed, so to speak. You will have less discretion the next time around, so I urge you to use your discretion carefully.

Chairman Hall: Please wrap up your comments, you are almost out of time.

Matt Rinelli: I will. My last comments are more procedural in nature. I just, and this is more in the way of a question, I have a couple of procedural concerns. One is that I didn't see in the file comments from the Regional Planning Agency and I'm wondering if they have been requested or if they have been submitted. The other comment is, I don't recall seeing and my client doesn't remember seeing and members of the public don't remember seeing a sign posted at the site noticing the public hearing, and thirdly, the third procedural issue, your regulations indicate that when an application is withdrawn it shall not be re-submitted for a year unless a specific waiver is granted by the Commission and I think that is Section 7.6.5 and I don't recall seeing that waiver, although I confess I might have missed it looking through the minutes. My final request is that the hearing remain open, I think the public is late in coming to this issue, but as you can see by the attendance tonight, there is significant interest and I think it would benefit the Commission to allow the public a continued opportunity to come. Thank you.

Chairman Hall: Anyone else wishing to speak in opposition? Please come forward, and I'm going to have to remind you about the two and a half minutes so that everybody has a chance to speak. State your name and address for the record.

Michael Davis, Brentwood Road: I'll be very brief. I'm interested in the environmental impact that this project will have. Changing that zoning from what it is to residential, especially a high density population will affect public safety, police, volunteer fire department, volunteer ambulance, it will overtax them. The schools, the classroom sizes, and the traffic. There is no way you are going to be able to get that kind of population in and out on Cedar Street, East Cedar Street. You're not going to be able to do it, it's way too busy. The traffic light is not going to go over well, it's not going to stop accidents, it might slow them down, so they are going to come out the back way and they are going to jam up Brentwood Road and those other residential areas. It's just a matter of time before that happens. The wildlife, we have deer, coyote, we have hawks and recently fishercats. There is a lot of wildlife that will be impacted by residential. The physical impact of course will be privacy. The area I live in, Brentwood Road, there would be hundreds of people running around that mountain, not just a couple enjoying the scenery. Parties and all that, the noise level would increase, and the thing about residential, they're there. They don't go home. If it stays the way that it is now, and it got developed, which I hope it doesn't, it would be a business, they close up, they leave. Residential are going to be up there impacting our services twenty-four hours a day. Thank you.

Chairman Hall: Thank you. Anyone else in opposition?

Stanley Sobiesky, 26 Deepwood Drive: I've lived in this town for fifty-nine years which is a lot of zone changes. This is not a good zone change for the residents of the town, nor is it good for the town. That mountain alone, Cedar Street is Route 175. It has tremendous volume of traffic. Now you are talking about putting a light in at the top of that hill, to allow ingress to the condos. What's going to happen when an 18 wheeler gets stopped half way up that mountain and tries to start up again? You're going to have an accident that makes Avon Mountain look like child's play. Again, this is not something that should be done until your final plan is ready to go into position. What you are doing is piece meal zoning here and that's not good. That's happened throughout this

town, and again, look at what happened when Reservoir Road, when West Farms Mall opened up, people were cutting through. The town had to close that road because you took a residential road and you put volumes of traffic on it that far exceeds what it is designed for, and what you are doing now is going to turn residential property down at the bottom of this mountain into another highway, which is why we bought property out of the state system and out of the main drags to live in the residential area that we wanted to. This is not good for the residents of this town. Thank you.

Atra Namus, 18 Deepwood Drive: Newington must maintain its remaining open space in the highest regards. The Town Parks and Recreation indicates the old Cedar Mountain hiking trail, states that this location offers a unique opportunity for hiking and nature encounters. The views of deer, small animals and hawks overhead are unmatched in suburban Newington. Articles are constantly written on the pitfalls of suburban sprawl. They ruin wildlife habitats, create increased tax burdens and destroy the character of towns. It should also be pointed out that Newington already falls way below the rest of Connecticut in saving open space. My understanding is that open space is approximately twenty-eight percent while the rest of Connecticut is at sixty-nine percent. Toll Brothers has finished a large number of town houses on the former lot occupied by the Hartford Drive-In over a year ago, and there are still units left unsold. The housing sector continues to go through dismal and unprecedented market down turn in this economy. The Town of Newington is not in a housing shortage by any means. There are 137 separate listings on Realtor.com web site. Consequently it is in Newington's best interest not to have a glut of new residences built on property that the town and its citizens cherish. These new homes just wouldn't bring a value to our wonderful town, and on the flip side, destroy one of our remaining plots of land that bring true character to Newington. In West Hartford, the plan for Blue Back Square condominiums constructed were of a high end in nature. Well after a year after these units were constructed, two of these units are still on the market at a range of prices. In conclusion, Petition 25-09 should be denied by the TPZ as not in the town's best interest. Development of Cedar Mountain would irrevocably ruin the character of the town, and lastly there isn't a market for what Toll Brothers is trying to sell. What would remain? A large number of empty units that once stood on Newington's last open spaces. How sad would that be? Thank you.

Robert Pingree, 186 Brentwood Road: I'm opposed to any zoning or other changes which would permit any development of the land on the top of Cedar Mountain and East Cedar Street. This land should remain as open space and due to its size is certainly more important as such than the Eddy Farm to which the town has already purchased the development rights. We need to do everything that we can to preserve our open space and our natural environment. Also the addition of an access road from East Cedar Street would create additional traffic congestion near the top of the hill which would be an especially bad situation during inclement winter weather. Please act to ensure that this area on top of the mountain remains as open space. Thank you.

Marilyn Miller, 2 Buck St: I am opposed to this for every reason that the opposition has stated. My immediate concern also is, since I'm on Buck Street, the construction in that area will disrupt the erosion pattern. I already have a wet basement. I will probably be put in a new flood zone because it is a wetland and if they divert that my house will be a target for that. I'm not happy about that. The construction will be years. It will be dusty, it will be loud. There will be accidents like Avon Mountain. I agree that first off when I heard about this and the way that this petition has been presented concerns me. I love this town, and I think you have to follow the guidelines and the attorney over there said it very nicely, if the petition was withdrawn, then we shouldn't even be discussing it tonight. Thank you.

John Coleman, 143 Knollwood Road: I agree with what everyone here is saying tonight, in opposition to the zoning change. Finding out that it was a zoned commercial development was

news to me, and I was born and raised in Newington, at the base of the mountain, Knollwood Road, so I'm asking that you don't change the zoning to R-12 residential development. Earlier tonight we heard that the land was privately owned and it is, but for us growing up in Newington, it was known as Barber's field, and a lot of good memories there. Anyway, last comment is that I think that this is a cornerstone development for the rest of the mountain and I don't think we should let it be developed. It should stay open space.

Ken Bower, 163 Olympia Avenue: I'm actually here representing a group of fourth graders at Elizabeth Green Elementary School who took it upon themselves to take time off from recess and make a poster and write some speeches in opposition to the development and I'm going to read the speeches. They're short, so I should be out of here in my allotted time. I'm not going to give out their names, but there were six of them that did this. First one, "Cedar Mountain is a wonderful environment, tons of splendid wild life. You will destroy all of the animal's habitats if you build on the mountain. It is just not right for you to build on something so beautiful. There are lots of empty buildings that you can use instead. That's why you shouldn't build on Cedar Mountain." You will notice a trend with these. "Don't build on Cedar Mountain because so many animals live there. They could go homeless and some endangered animals could become extinct. The next one is "Please don't build on Cedar Mountain. It has tons of wildlife so if you build on it the animals will have no where to live, like the deer, birds, rabbits and many more animals. Might just be extinct and that's just not right. All animals deserve a place to live. Cedar Mountain is an historical site for people when they drive by. Cedar Mountain is a beautiful green color and we deserve to have it stay, so let Cedar Mountain stay." "Please don't build on Cedar Mountain, there is a lot of wildlife. Somewhere or something is going to get hurt. For example, deer, rabbits, birds, snakes, and there are many more endangered animals out there. It looks nice the way that it is." And the last one, "Please don't build on Cedar Mountain. There's a lot of wildlife. If you build on Cedar Mountain, you will risk an animal's life. You are killing the animal's habitat. Leave it alone. It looks great the way that it is. Someone could get hurt, like deer, rabbits, fox and many more. Cedar Mountain is an historical site for many years, bikers and hikers enjoy the beautiful landscape overlooking Newington on top of Cedar Mountain. Some animals could become extinct." Thank you very much.

Gail Bedrako, Isabelle Terrace: I echo all of the sentiments that have been spoken to already, and I'm just going to repeat a few of them. Isabelle Terrace is at the very bottom of the mountain and currently there is not enough, we talk about sewers and water, there is not enough capacity now to handle what is going on, every time after a heavy rain. The water comes down Brentwood off the mountain, makes a left onto Isabelle Terrace and we have a river and wet basements. What is going to happen now? I mean, you are building there, there is going to be trap rock left, what's going to happen now? Are you going to do anything to help us out at the bottom at the mountain? Secondly, the wildlife, I love the deer, I love the rabbits, I love whatever. There's also a lot of other little critters like woodchucks, skunks, raccoons, whatever. You build on that, where are they going to go? Into our backyards, into the residential areas. Where are they going to go? I love them, but I've got enough of them though. Thirdly, the traffic. Isabelle Terrace has twelve houses. It is the Daytona 500 now because people have discovered this is a way to avoid Main Street, getting between Hartford Avenue and 175. Thank you very much, whoever's genius it was, we definitely need another hotel on the Berlin Turnpike, don't we? And, another shopping center when we can't do anything with Newington center, but that's going to be developed, that's going to increase the traffic, it's not going to be long before the new residents of this development are going to discover the shortcut to avoid both the stop signs on Hawley Street and Main Street, so please keep this development off of Cedar Mountain.

Michael Fox, 1901 Main Street: It's a little different this time. It's the first time I'm back here on this side, you know, we're in this big auditorium and God bless the Town of Newington, try to take the mountain from them, and they come out in droves. We have certainly been put through the

wringer, the Commission has, regarding this parcel. One of the first applications that I saw as an alternate on the Commission, I don't know, close to ten years ago, was a proposal for apartments up on the mountain. Two more came around and they, as all of them did mentioned tearing up the mountain, slicing it right down to just about the same grade as East Cedar Street, unacceptable. This will also mean truck load after truck load after truck load of large dump trucks, tubs, eighteen wheelers, ten wheeler tubs, coming down Russell Road, Route 175, and onto 5 and 15. Before I go any further, I want to say something about Toll Brothers. Having been on the Commission when Toll Brothers first came in with their application for town houses at the Hartford Drive-In, I got to know some of these people fairly well, went to see some of their projects, because where ever Toll Brothers does build a development, it's a good development and people always have good things to say about them. However, right now, they want to help us with the housing crunch by putting some condominiums up on the mountain, taking up, as these people have said, some of our last open space in town. Now, at the last meeting they talked about there is very little developable property left in Newington, if any, and they are right, but I thought the new accessory apartment regulation was supposed to take care of that. I mean, that's what we hear, you re-instated it because it would take care of the property crunch, people would be able to live in accessory apartments. I'm going to try not to be redundant, but there were a lot of things said. As Commissioner Pane said, we don't even have the 2010-2020 Plan of Conservation and Development and although as said, the current plan should be viable, should be used, this project if it goes through is going to be there for a long time and so I also think that we are putting the cart before the horse and that maybe they should withdraw without prejudice. Now I don't know how many of you have driven up and down Cedar Street, I know that a lot of your kids were probably on that property, doing whatever you were doing as kids, my kids were. I didn't grow up in Newington, but my two boys were up there, and fortunately never got into any real trouble. Driving up and down, I've noticed, and you have probably noticed also, in the spring, in the winter, there is a lot of water seeping through the rock. Now the water table and everything was mentioned by Mr. Mancini, but I just can't help wondering what would happen to all that water, where would it go, as this young lady before me said, once you put all that hard surface up there and have all those condos up there. The other thing that bothers me is that there is some talk about the ridge line, and whether or not these condos approach the ridge line, I'm wondering just how much of the woodlands, how much of this open space you would see from the rest of town. Right now, if you are on the golf course at Indian Hill, and you look up in that direction, you see all that open space, you see all the woodlands. Same thing from Fenn Road. Coming down the mountain from the turnpike, that's all you see. If there is any development there, knowing how most developers, I'm not going to say rape the land, but they have to open up their property so that they can work on it, all you are going to see up there are the condos, you aren't going to see woods. And as also mentioned there are a lot of species up there, deer, fox, coyote, golden hawks, and others, we'd be missing this and it would be a terrible loss to our town. There's one more thing that I will mention, there's actually more than that that bothers me, but next meeting is another day, we are about to cut a ribbon at the municipal parking lot celebrating the first step in constructing a parking lot with a playscape in the middle of all of the parking spaces, and yet the town has been looking for a grant, for many years with which to purchase this property. I wish that could come about and I wish Ed and other could do something about that, because for one thing, a playscape would be much safer, and much better looking up there. Thank you.

Lee Ann (Inaudible): I didn't plan to speak this evening, so bear with me, I'll try to keep every thing coherent. First of all, the Toll Brothers Corporation are great builders. My mother has a place built by Toll Brothers and they are quality builders, there are no problems. I have problems with building on the mountain. I'm a third generation townie, my father's parents moved here before their children were born, my mother's parents moved here when she was in fourth grade, during the second World War. They chose to live here their whole lives. I was born in '61, lived

on Gail Circle and my parents bought a house on Eddy Lane, which my father had worked on when Eddy Farm had a corn field there. It was a new development, it ran just about one house down midway on Eddy Lane, so the first few years that we were there I remember playing up beyond that, where Tremont is and what have you. I used to bring up baby snakes when we disturbed their nests and leave them in my pockets for my mother to find in the wash. She didn't appreciate it, but that was always fun and a lot of the kids that things like that, over by the swamp that ran all the way to Stonehedge. When you drive through there now, it's been continued on, Hickory Hill, Tremont, over the course of time, pieces of land have disappeared. And that's all well and good, lots of these folks probably live in these houses that I'm talking about in these developments. When I went to school at Patterson, Beacon Street only ran half way and there was a big field before you got to the school, another place that was great for adventures. Then Wallace was built, we need a junior high at the time, we needed a new high school, more land taken up because we had more and more people, more and more services that need to be addressed. Safety, sewer, schools and I'm a big supporter of this town, but more and more we have very few places like I could go as a kid, just down in my own backyard. Now you have to get in the car and drive over to the Young Farm, or my in-laws happen to have a spot next to the mountain, they can walk to the end of the street. I'm envious that they can just take a walk to the mountain. We have so little left, and in the course of, from my birth to now, almost fifty years, we have lost so much land. I don't wish that it be changed from commercial to residential, I'd rather you change it from commercial to open space and keep that. My understanding tonight, and perhaps I was mis-informed but I thought tonight was about addressing the needs of the town from 2010 to 2020 and there are three parcels there. The one that they are talking about, another piece in between, and then Cedarcrest which is in the process of potentially being decommissioned by the State. I don't know what that means in terms of availability, but that sounds like the whole mountain is up for grabs, and I think it's your job as a Commission to decide what we are going to do with that long term rather than piece by piece by piece, and I would ask that you consider making it all open space. Thank you.

Chris Banach, 145 Starr Avenue: I'm going to reference the draft, and I understand that it is a draft plan that was presented to the Town Council last night. On page 18, the general goal for open space and greenways in this report which is available on line at the town site, states that one of the goals is that we want to create a town wide open space network, and to paraphrase it, to provide residents with a sense of space and relief from intensive development found in a suburban town. One of the strategies, strategy number five is to determine how much of Cedar Mountain should be preserved as open space, yet if you turn to page 36, under business and development, areas east of the town center, referencing this site, under item number seven, the first lettered item, A, one of the things considered is the height of structures along the Cedar Mountain ridge line. I would ask you, I opposed development three years ago, my son spoke too, and as he put it, Cedar Mountain is one of the, if not the last, beautiful places left in Newington, and you are the only town agency that stands between development and open space and I would ask you to sincerely consider that, that if you only have two or three months to go and we are in the 2010, as one of the Commissioners pointed out, to take a serious and hard look at this plan instead of considering any changes to anything at this point, I think first and foremost the focus should be on open space and how we can arrive at that, rather than considering a zone change. Thank you.

Brian Randolph, 17Cambridge Drive: There are definitely a few concerns over the things that were said in presentation, they made it sound all friendly, that they are only going to develop so much, I call it the field, I'm pretty sure I know exactly what they are talking about, it has been kind of disturbed, it's not completely wooded. My huge concern is that this is a corner stone development and that after this, we let this go, and the whole thing is gone. They said that they are going to conserve seven acres, west of the ridge line for open space, I'm pretty sure that is a fifty degree vertical cliff, rock, and that wouldn't do anybody any good at all. I would not like to

see all of the mountain with all of its trails go, it's a very great place for me to go for walks, just for your mind, taking some fresh air, and enjoy the day. Thank you very much.

Ellen Thibault, 101 Hartford Avenue: I came here tonight because of the Plan of Conservation and Development draft that was supposed to be talked about tonight. I didn't realize that there was a public hearing on a zoning change, but I would like to say that I am opposed to that. Migratory birds stop on the mountain, on their way north in the springtime, and it's a wonderful thing to see. We see some very unusual birds. I do agree with someone who said earlier that there will be site blight as a result of it when ever you are looking at that mountain, whether you are coming from West Hartford or New Britain or the Berlin Turnpike. Traffic stopping on the mountain during a snow storm, I'd like to see how that would pan out. It's dangerous enough to navigate now as it is. Engineer John, he said that you can't have any less impact than residential, well, open space has less impact. It was indicated that there were different things in the 1995 Plan, the ridges which were to be protected, and those were the resources, but open space itself is a resource. Thank you.

Diane Warren, 111 Brentwood Road: My backyard is adjacent to the area that everybody is talking about. I originally didn't plan to stand up here, but I moved into the neighborhood last year and it was on October 31st, and I drove up the road, and I saw this big, beautiful, colorful mountain in front of me, and that's why I purchased my home there. It's absolutely beautiful. Just recently I started taking hikes up there with my dog, and I won't be able to do that any more, and I'm thinking about you know, I'll either have to drive to West Hartford and go to the reservoir, drive to East Granby to the wild life preserve, go to Avon or Simsbury to the trails that are there, the old railroad beds. I can't believe I have a nice mountain in my backyard where I can go for a nice walk, and I will have to leave my town to go to other towns, who do have open space. So, that's all I wanted to say, I think as someone said, we have less than thirty percent of open space, in comparison to other towns that have sixty-nine to seventy percent, if you take that away, there will be nothing left, so I ask that, and one other thing, I went around the neighborhood with other people, I met and made some new friends, most of the people who are here did not know that this was going on. I got a flyer in the mail two or three nights ago, I showed up last night just to be informed about what was going on, so I didn't know what was going on. I knew that there were shops at Cedar Street going up there, but I didn't know about this, and we ran around the neighborhood and had people sign you know, and asked people to come tonight, and nobody knew about it. So every thing is kind of being done under the radar, nobody was here last month. Nobody in the whole neighborhood knew what was going on, until now, and with nobody knowing, this many people showed up. That says something for our neighborhood, so I ask that you consider everything that everybody said, and keep things up on the mountain just the way they are, beautiful.

Kathy Mulchan, 5 Deepwood Drive: I ran around tonight too, trying to get people to know what was going on, it was kept pretty quiet. I myself didn't know about it until a couple of days ago. I love waking up in the morning and looking at our mountain, it's beautiful there, I enjoy it, I don't always like the coyotes in my yard, but please think about what this one decision, the repercussions of this one decision will have further on in our future. Thank you.

Donna VanDam, 41 Hawley Street: I also am at the base of the mountain, and I didn't plan on speaking. I agree with everything that everyone has said in opposition to this but I particularly take exception to comparing this piece of property to the drive-in theater that sat abandoned for ten years. They have nothing in common and I really hope that you will keep this as it is.

Carol Wojtowicz, Brookfield Avenue: Tonight we have heard many, many opposing issues and I'm no exception to that. I highly oppose this development, but I think, for this Committee to shine, they first would withdraw that petition, or application, and then become involved in how we

in town, and perhaps other non-profit organizations could acquire that property ourselves, to keep it as open land. To be more creative and not have to, not only have to oppose the zone change but oppose any other building structures on there. By doing that, if we could all band together, to come to some kind of ownership of that property to keep it as open space, I think that would be the absolute best interest for this Town and this Committee would just shine.

Rose Lyons, 46 Sullivan Drive: I came to the meeting tonight just for informational purposes. Ever since Mayor Mortensen gave us residents of Newington a few years back an F for participation in our town government, I've made it my business to attend the town council meetings, and various other meetings that are held here in the town hall. I'm delighted to see you all here tonight. I'm very disappointed to hear that you didn't know that this was going on. It's been in the newspapers and it's a shame that it has to come to the point where a few people have to send out flyers to get your attention. I would hope that from now on, you pay attention, you listen, you see what is going on, you read in the Hartford Courant not too much about what's going on here in town, nor in the New Britain Herald, but I think that you have to keep your eyes open, your ears open, and listen because a lot of things are happening, under the radar, that you are not aware of, so thank you very much for coming tonight. I was asked earlier by the owner of the property to say something nice, and the nicest thing I can say is that I'm proud to be a resident of Newington for over sixty years, I love the mountain, let's save it.

Ryan Barnicle, 62 Crestview: Am I to believe that the representatives of Toll Brothers get a rebuttal after this?

Chairman Hall: They do.

Ryan Barnicle: Okay, then everything that I was going to say has already been said, so I would just like to bring up something that I read last night at an informational meeting, I'm not going to name names, because it just may be a rumor, but I would like, when they rebuttal I would like them to address the rumor that they have been talking to Tilcon Corporation, the former Balf Quarry Company about purchasing one hundred acres from them, which would be north of their development that they are talking about right now. Thank you.

Judy Igelski, 23 Old Muskett Drive: Good evening, I came here to listen to people, I'm thrilled that so many residents are here. I've been very involved in town for many years, we have raised our children here and my grandchildren have participated in some services offered by the town. I've always believed in Newington as a family town, a town for residents, families being many different make-ups. I really care about this town, and I can tell that these residents are just a sampling of what is out there in our town, people who could not be here tonight. I know that there was a flyer distributed to nearby home owners, and that a meeting was mentioned for next Wednesday, the Conservation Commission meeting, that meeting is being held on Tuesday, the 20th, unless the date was changed. I care about our education, our library, our services, our open space. I agree with everything that people have said. Also, at the same time I think Toll Brothers Company is fantastic. I like what they build, I think they are very proud of what they do. I would like to see a partnership somehow that, and I don't even know if this is possible, I'm not in the construction business, I don't know what their philosophy is, but Cedarcrest Hospital may be empty at some point in the future. I wonder if they could work together to refurbish that hospital into housing for seniors or for mixed age, whatever, maybe that building could be reused, I don't know. It will still go with the open space concept, it would not destroy plant life and the animal life that the young people have mentioned in the letters. As for finding out what is going on, I would encourage watching Channel 14 and 16, NCTV does a fantastic job, there new facilities are beautiful, almost up and running, they working very hard. I would encourage you not to change the zone, not to make the zone change. I do want to keep the open space, and I really am very much

encouraged that my belief in the residents of Newington has been made even stronger than it has been for many, many years. I thank you for coming.

Bernadette Connolly, 177 Hartford Avenue: I'd like to start off by thanking the Commission for accommodating us. This would have been very uncomfortable in that little room, so thank you for accommodating and taking the time to hear what we have to say. As you can see, there is a lot of people here that love that mountain, and these are only the people who know about it. There's so many people in town that don't even know, it was mentioned how it was tough finding anything out about it. If it weren't for an ad that I saw in the Town Crier from the Humane Society I never would have known. That started the whole process for some of us and I'm pleased that he brought it to our attention. As far as notifying the community, I really didn't see any kind of notification. I know that I heard that there is a sign up on the mountain, a little sign that is hard to read. If you don't drive by it everyday, you will never know that it is there, and you're driving so fast, how can you see it? You are going to cause a traffic accident. I know that there was something in the paper, it was in the article about this long range plan hearing that you are having, it was the second to the last paragraph that you were having the hearing about this plan tonight. I don't think there was enough notification for people to know about it. This is just a drop in the bucket for people who would want speak out, that's my feeling. We really need to work together, we're here to oppose the zone change, but it has to go further than that, we have to continue working together with the Humane Society looking for grants so that our town can purchase this property, and we can keep it as open space because it's so important to all of us that this is ultimately what the goal should be. So I just want to thank everybody for coming out tonight, it is a wonderful thing to see everybody out, and I also, for people who couldn't be here, I have a whole bunch of petitions that I would like to present to the Commission in opposition to this plan. Thank you.

Sandy Nafis, 49 Whitewood Road: This is really a great turnout tonight for something that I know that so many people feel is just truly so important to our community, from the past, from the present and certainly into the future. I'll tell you a little bit about my past. I grew up in Cheshire actually lived on a farm and when my grandfather passed away we could not afford to keep the farm. And when that land was sold, it broke our hearts, and we had to sell it, we couldn't afford to keep it, and when it's gone, it's gone forever, and I know that's the way I feel about the mountain and I know that that's the way everybody in this room feels about the mountain too. So obviously you are getting an outpouring tonight of that, I've lived it and it's a tough thing and I think Lee Ann talked about it too, it's a tough thing when you see that land go. I do want to say, Toll Brothers did a fantastic job on the drive-in site, I know they are a reputable firm, this is certainly not about them. This is about our mountain, and our future in Newington. From my other hat, my other role, I think you all probably know I am the state rep from Newington and several years ago we all know that we did obtain a grant from about a half a million dollars to help purchase some of the mountain. Unfortunately, the original deal I guess didn't work out with the people who were going to see it, I think it was Balf who originally had it, we held onto that grant, with the hopes that something would come together, in fact, we then went and extended that grant, unfortunately at that time, the town was committed with some of their own resources to do other projects and didn't have enough money to step up and do anything with it. The Humane Society has offered I think repeatedly to work with the Town in the future, and I will tell you that I spent an awful lot of time this afternoon talking to state agencies, trying to figure out what kind of opportunities were out there for the town to be able to move forward and get assistance from the state and the feds. I mean, there are opportunities that we can pursue together. There are opportunities through other non-profit organizations, that could work with us, there are also tax breaks that can be given to entities who wish to donate their land to our town. It is a commitment that we would have to have from you as the Planning and Zoning Commission in your open space plan, in your overall plan, what you would want to do with this town, and then it would be a commitment I think we would need from the town to pursue something like this. I just want to say, there are options

here, I know that you all know that there are options, but it does cost money if we do decide we want to get this land, there will be a financial commitment, but those financial commitments that we make to preserve things for the future, I think are very much worth it. As a team we can do this. I want to thank all of you sitting there, because I know that you put in a lot of time and effort into what you do for our town and do your best, your very best to try to make good decisions for all of us, I just really do believe, and I think everyone here does that once you lose the open space it's gone forever, and we hope that you will preserve it. Thank you.

Frank Kane, Knollwood Road: Good evening. I've lived in Newington for about the last eleven years. I've lived on Knollwood Road and a big part of my decision to move into that house was the view of the mountain. It's absolutely spectacular, especially this time of year. I didn't realize until this evening how little bit of land there is in this town compared to others. In your capacity I believe that you are looking out for the best interests of the residents of Newington. My only question is, when is enough, enough? We're down to twenty-eight percent, when do we draw the line in the sand and say, that's enough taken, we need to preserve what we have. I have my grandkids coming over now, hate to say it, but I'm that old, but one of the things that they love to do, that they can't do in Suffield, is climb mountains. They just love taking our dogs for walks up that mountain. It's spectacular. It's big enough so that it feels like country, but it's small enough so you're not going to get lost, but it is absolutely spectacular, I think what was mentioned here tonight by a lot of these folks, my biggest concern is the safety. What would happen with traffic going in and out of this proposed development? I don't know how many years it would take for this to be graded, but I can't imagine going up and over that mountain for eighteen or twenty four months with the constant construction going on. I think you are going to see an accident happen before this plan is finished if it does go through, which I hope it doesn't. But, if your best interests are the people of Newington, I think the outpouring tonight shows you, we are deal set against doing anything except leaving that mountain alone. Thank you.

Stephen Bellman, 82 West Hartford Road: Hello. I've spent a lot of my childhood and a lot of my youth up on Cedar Mountain. I think it's a really great place, it's probably one of the best things that our town has to offer and I'm honestly kind of disappointed that we are even considering giving a single inch of our mountain to a corporation. This is the town's mountain, and we should save it. I think it's up to us and I feel really strongly about this. Thank you.

Marge Banach, 145 Starr Avenue: I'm also opposed to the zoning change. I listened last night to Channel 14 as the Town Council was presented with the Plan for Conservation and Development and I thought I heard Mr. Meehan say that ninety-two percent of our town is already developed. I keep hearing the figure twenty-eight percent, but I thought I heard you say ninety-two percent is already developed? Is that correct?

Chairman Hall: We usually don't have a back and forth, but I believe that is correct.

Marge Banach: All right, well anyway, that is what I thought I heard him say on Channel 14. That is a good source of information by watching what does go on in town, and I want to thank everyone for coming here tonight. Thank you.

Eric Robinear, 26 Bayberry Road: A lot of very intelligent points have been made tonight, and honestly, a lot of them are over my head, and I wasn't planning on speaking because of that, but the more I'm sitting here the more that I'm realizing that it is kind of a no brainer, I mean, Cedar Mountain is a good thing, we all like Cedar Mountain. We don't really have a good reason to get rid of it, why should we? I mean, I like Cedar Mountain, I think you all like Cedar Mountain.

Jeff (inaudible) 55 Welles Drive North: I would just like to say to the gentleman from Toll Brothers, I know that you guys have some pretty deep pockets, and I know what the public

relations costs you guys, but obviously, this mountain means a lot to the people of this town, I'd like to ask you guys to withdraw this application, maybe consider deeding over this property with the development rights to the town. Thank you.

Chairman Hall: Is there anyone else wishing to speak in opposition. Seeing none....the applicant, if you are planning to speak in your mind right now, say I want to speak, because this way we can move it along.

John Nadeau, 374 Lloyd St.: I'm a twelve year resident of this town and I feel very strongly about that mountain and what has been said this evening. I have a friend of mine that came down from upstate New York and he called our town a poster town that represents New England. He said it was a beautiful town. I know that we all feel the same way, it's a beautiful town. I want to thank Rich Johnston for being an advocate for us, as well as the young men and women who have spoken out today. Thank you, and have a good evening.

Chairman Hall: Is there anyone else who wishes to speak in opposition to the application? Is there anyone who just wishes to speak, not in opposition, not in favor, but just to speak. It is time for the applicant to have his five minutes of rebuttal.

Attorney Regan: Madam Chairman, my understanding is, as Attorney Rinelli mentioned that we are going to keep this hearing open for at least one more hearing so at this point, it's been a late night and I know that you have the Plan of Conservation and Development, so I just reserve my rebuttal rights until the next hearing, if that is acceptable to the Chair.

Chairman Hall: It's your option.

Attorney Regan: Okay, we'll just reserve our right to the 28th. Thank you.

Chairman Hall: Any questions?

Commissioner Pane: Madam Chairman, could we have the applicant place a sign on the property that there is a public hearing. I drove by there earlier tonight and.....

Attorney Regan: The town sign provided to us was posted about five weeks ago in accordance with starting the hearing the last time. I did hear somebody making reference to the fact that they had seen it, it is a small sign. We'll check, if that sign has been removed by elements or other reasons, we'll repost it. I have no problem with that, we will definitely do that tomorrow. Thank you.

Chairman Hall: We will keep this hearing open and continue to the 28th of October. We will continue this meeting in room 3 which is the E. Curtis Ambler room. You are welcome to stay for the next petition, because it is the presentation of our 2010-2020 Plan of Development. We are going to be doing a power point presentation, so we will be going back to conference room 3 now. You are welcome to come.

Chairman Hall: We are going to resume the Town Plan and Zoning Meeting for October 14th, we are now in room 3 and the secretary can read the procedures for public hearings again.

B. Proposed 2020 Plan of Conservation and Development – Chapter 126, Section 8-23. Proposed by the Newington Town Plan and Zoning Commission.

Chairman Hall: Since the town is the applicant on this, so to speak, I'm going to turn this over to Ed who is going to take us through the 2020 Plan of Development. Do you have the lights down there.

Ed Meehan: Unfortunately we can't control the front end of these lights, so if I turn them off, we are going to be in the dark, it's a limitation of this room.

Just to go over this for the official public hearing record, the Plan of Conservation and Development was received by the Commission back on July 22nd, and immediately following that meeting where the Commission directed staff to release it for public hearing, it was referred to the Capital Region Council of Governments and to the Newington Town Council for their required statutory reviews and advisory input. We also have placed this on the town web page. This document has been available since early September on the town web page, in the library and the town clerk's office, planning and engineering and a couple other locations around the community. Last night we had a presentation to the town council. They afforded us an opportunity to come before them, they asked that we sort of give them the Reader's Digest version, so I did go through it quickly. I don't want to belabor this with the Commission, because you have been working on this for going on two years now, but I do want to make sure that we get into the record the high points of this plan, and give residents a good picture of what the plan is all about. So, with that, just quickly, I'll take maybe fifteen minutes to do this.

This is the draft plan. General trends, as we all talked about on many occasions, our limited land supply. We are built out at ninety-two percent of our area in Newington. Eight percent is still left. That eight percent is roughly divided between residential and commercial properties. Of that eight percent, fifty percent is what we would classify as limited development potential because of wetland, flood plain, or steep slope. So we do have a capital need for more land which we're not going to get and we have to be creative with what we have left, and that is the next opportunity, re-use of parcels, re-use of commercial, industrial properties. We do have some benefits of our location, long range, again, this is long range in the purview of a ten year plan, with transit opportunities for the Hartford-New Britain busway, as possible rail stops in Newington as we are talking about the New Haven-Hartford-Springfield line. Both go through Newington, both converge in Newington Junction. A concern that we have addressed in the background studies of the plan, and we have talked about this quite a bit is the age of our housing stock, over forty years old, most of it build right after World War II. We have to be diligent in our code work, diligent in building, fire, using housing rehab programs and so forth to maintain our neighborhoods. Another key thing is going to be helping older residents. Right now population projections for Newington shows what a flat population change, pretty steady, the population is aging, they will require different services, so that has to be kept in mind going forward.

Here is a quick shot on the future land use plan. The white spots on this plan, we will start with what was talked about at the prior hearing, the twenty acres that we talked about; sixty acres owned by Balf, this is also a Balf piece here; Cedarcrest Hospital, Balf Quarry, Cedar Hill Cemetery. Another big piece of open space, vacant land, not open space, this is non-committed open space, vacant land, privately held, over off of Fenn Road and Route 9, that is a thirty-five acre piece. This chunk of land between the rail line and the future busway is all Piper Brook wetlands, very limited development potential, and there are just spots around town. There is no big chunks of open space, sorry use that term, vacant land is the correct term in Newington left. There is some land down off of Culver at the Halter property. We will talk about that when we get to the opportunities map

Division, protect Natural Resources, protect the historic resources, we want to continue to be a single family, medium density owner occupied community with safe neighborhoods, excellent community services. We want to place high priority on the town center, and that means programs for the town center, to make it an attractive business location, specialty shops, build on the town

center as a nucleolus where we have our institutional and government buildings and keep the suburban New England character of the town.

We also have to be practical and prudent recognizing that we are not going to do the services that we afford our residents unless we have some reasonable land use growth and grand list growth to pay for what we have to deliver to our residents. Also, we are strategically located in the capital region as an inner ring suburban community to take advantage of some of these longer range transportation facilities.

The Plan, statutory purpose, municipalities in Connecticut are required to do a ten year plan, that's one of the reasons. The other reason is just general good community development and practices, good public administration and management to have some sort of a guideline going forward and that is what this plan is, just a guideline for long range plans which other boards and Commissions in the private sector can look into. So it is really a policy document.

The theme of this plan, the Commission set this theme I guess back in March when we first sat down and started to sort of pull all the pieces together. You wanted three main themes, Conservation, Development and Infrastructure and within those three main themes are subsections where we developed both maps to show what you want strategically as well as specifics, proposed strategic recommendations. I'm not going to go through all the recommendations, there are over 123 recommendations, I'm just going to hit the highlights. Conservation, again, these are the natural resources that we want to look to protect. Water courses, wetlands, those are regulated by the Inland Wetlands Agency, by statute, steep slopes, we do have criteria for the management of steep slopes in Newington. We have two criteria, the first, we are a ridge line protection community, we did adopt the zoning enabling criteria for ridge lines. We have one section in Newington that qualifies. It's the section that the Balf Company owns, it's known as the scenic overlook. It meets the slope criteria of fifty percent slope. It's a classic trap rock ridge slope ridge line. The other criteria is in our subdivision regulations. We talk about slopes over fifteen percent should not be developed. This criteria is just basic general good engineering practices during development. The flood plains, again, this is within the purview of Planning and Zoning, you regulate the one hundred year flood plain through a FEMA program, that's within your purview to regulate. Here is the map that shows that strategically, the Piper Brook flood plain system and channel encroachment lines outlined in red, the green is large blocks of inland wetlands and watercourses, Piper Brook, Mill Brook, Rock Hole Brook, Webster Brook, all flowing southerly to the Mattabasset system. The brown is just the ribbon of ridge line slopes over twenty-five percent, starting with Cedar Hill Cemetery in the northeast corner of town, and basically none left because of the Balf Quarry, then you get into Cedarcrest Hospital, substantial chunk of ridge line starting there, all the way down into the Balf piece, that nose or thumb of property that the scenic overlook is on, the west end of where Balf park is, and the former CCMC property, the west end of that property. Little pockets of wetlands here and there, that's the map that shows you natural resources.

Create an open space system, we believe that there may be opportunities for linkage now through publicly held open space institutional properties. This conceptually shows some of those linkages. One of the main ones that may come to fruition is the all purpose trail which could be associated with that New Britain-Hartford busway which runs from New Britain through CCSU's future campus, up to West Hartford. There are ways to possibly spin off of that, link through the Veterans Hospital, through some town property near St. Mary's, through the property across the street which is near the senior center, through the Mill Street Extension, through the town center, up through the Hartford Hospital piece, under the old Cedar Street, up the Old Highway, up to the top of Russell Road and then some sort of a pathway up to MDC reservoir actually up here in Hartford. Going south, basically this crescent represents the former I291 corridor, the blues are your institutional properties, that's like Department of Transportation, Churchill Park, all the open space that the town acquired is turned back from the feds as part of I291, and then this system going southerly is Wallace, Patterson School, the Young Farm, and then down into the open space down behind Tremont. So there are some possibilities to create the system.

Community assets, this is a new section, it hasn't been in prior plans but we wanted to highlight some both significant areas in town, they are clustered in the town center, but they are important to mention here.

Agricultural, of course the Eddy Farm and the Deming Young Farm, two very large pieces of open space acquired under the last town plan, or actually the current town plan in the last ten years. Recreation, Indian Hill Country Club, the green area around the town green, Mill Pond Park and so forth, and that is what those represent.

With all of the components, strength of the town center, focus on transit oriented nodes, reinforce the Berlin Turnpike as a commercial corridor, protect residential neighborhoods, promote communities gateways.

This opportunity map, we have seen this many times, I'm not going to belabor it, but we can come back to that if the public has questions on this. There are twenty-five sites on here, some are, most of them have footnotes over in the right hand side. They are not all development sites. Many of these are open space protection sites, some have two labels on them, both conservation and development because if the Commission recalls, you are looking for public input on some of these areas, to be guided by how you want to put this down in your ten year plan. So those are some of the key sites going forward.

We have twenty-five strategies for the town center. The highlights are, we want to maintain the scale and density, the property owned by Hartford Hospital on Constance Leigh Drive has excellent location and opportunity for some mixed use in town development type, residential/commercial uses, town hall/library complex, government center, a good thing to capitalize and strengthen. We talked about re-opening Mill Street, this I will get into further in the plan, but that could be important to help people get into the government center. The town center should be really specialized businesses. Density of three stories, mixed use on the second and third floors and continue to use our town center design guidelines that were adopted with the Village District Act. Streetscape projects, traffic calming on some state roads would be important in our town center. The next one comes out of our plan that is in effect now, trying to get the post office to come around and work with the town and private sector developer for Lowry Place, to improve circulation and mail drop off and then, continue to support festivals in the town center, whether it's the Chamber sponsoring the car show, the Waterfall Festival, Kiwanis Flea Market, the Downtown Business Association, making that an asset for the community.

Strategies for residential, medium density, I won't belabor that. Protect neighbors from commercial encroachment, strengthen our commercial/residential buffers, work with the Capital Improvement Program and the Town Council to continue our street maintenance program and continue sidewalk extension, adopt a property maintenance code. This ordinance is something that we have talked about. It goes beyond the junk car ordinance, it goes beyond the blighted property ordinance. We've been talking about this with our Town Attorney as well as other communities that have adopted ordinances that get into litter, height of grass, things that don't fall under the purview of zoning or the health code, or the building code. We think this is important in Newington. Housing rehab loans, we have issued over a hundred of these since this program started, this is particularly good for older homes, it's a program that is very well used by our older population that have all their equity in their house, they want to stay there, but they need a new roof, or a new heating system and this is ideal for older folks in Newington.

If we are going to look at higher density, what the Commission is putting forth in this proposed draft plan is at very limited locations. Maybe some spots on the Berlin Turnpike, but more often associated with transit oriented development on those sections of town where we have transit nodes, that's at Cedar and Fenn and up at Newington Junction, representation of the strategic map for residential development.

Business development, again, we have to capitalize and reuse our land more efficiently in our industrial area, see if we can get some additional land coverage and better site plans. National Welding is a key site for both getting it back on the grand list and making a gateway site over at Cedar and Fenn and then trying to protect what industrial base we have from non-residential

encroachments. This could be fraternal organizations that want to locate in industrial zones, it could be non-industrial uses trying to move into industrial zones, things like that.

Berlin Turnpike, East Cedar Street business district, this is the Hunter site, essentially up where Charlie Lowe used to have his manufacturing property. We're talking about height control, traffic management, single point access to a traffic signal. Russell road, East Cedar Street, steep slope ridge line protection is where that fifteen percent is taken from the subdivision standards, single point access. If there is going to be any development up there, it should be low density and have low traffic impacts. Route 9, Cedar and Fenn, CCSU has identified the land south of Cedar Street as their east campus. It's 120 acres. It has major impacts to Newington both as far as traffic, has long range impacts as far as flood protection because that land sits above Stamm Road and the flooding that we have south of that area, so that is important in development over there. Want to take advantage of possibly doing some transit oriented zoning overlay districts, or transit oriented zones to permit density in those areas to help with redevelopment. Ella Grasso Boulevard area, is where we could maybe offer an industrial, not an industrial park but an office park that has good access to Cedar, Fenn Road and Route 9. Strengthen the Berlin Turnpike as a corridor, and then for the local business areas, there are two or three of them in the community, work with those property owners to develop site plans to illustrate better curb cut management, traffic management, sharing of parking, unified lighting, facades and so forth where they can begin to market their properties a little bit better. That's the business plan.

Infrastructure, quickly, the government center, library, senior and disabled, town hall, police department. The library board has asked us to include in your draft plan the idea of expanding the library based on the 2008 concept plan that is your recommended proposal at this point. Also as part of that, it's important to consider the library parking on the east side of Mill Street so that their patrons would have direct access into any expansion to their building. That reduces the parking need out front here, at the town hall for library patrons, and it also reduces the number of pedestrians crossing Mill Street which opens up some opportunities to open it with some strong traffic calming techniques, so that people can come into the government center at a slow pace and not be running down pedestrians.

Education, our school sites are excellently located, large playfields, recreation at the school sites is fine. We see that with the population development, the change in the population, there is no need for additional school sites.

Park and Rec, their master plan is in place. We want them to continue with that. There may be opportunities to consolidate Highway and Parks and Grounds divisions at one maintenance garage. This is economy and some efficiencies there. Solid waste and transfer station, the towns in the capital region and the Connecticut Resource Recovery Authority are all going into discussions about what to do with that facility, the Connecticut facility. We put this in here again, this is long range, it could be pie in the sky, but it could be some opportunities where Newington uses our rail facilities as part of a transfer station to move our solid waste. We are in the process of closing the Main Street land fill. We have a contract with an engineering firm to meet DEP requirements for that. We do want to end up with a recycling center for residents, compost area for residents and long range recreation fields that would tie into Churchill Park.

Community facilities plan, the template is set, no recommendations for more lands for community facilities. I would point out, over here on Alumni Road, this is the temporary overflow parking for the athletic fields. Question there, should we improve that for parking, should we relocate that if we do any traffic improvements further down Maple Hill and Alumni.

Transportation, support CCROG's plan, both the town council and the TPZ worked on long range plans with CCROG. We have talked about short range improvements over at Ella Grasso and Fenn. Town Council and this body endorsed those. Work with ConnDot and CCSU on the east campus. This is a very important impact to traffic. We are talking about replacement of the Cedar Street bridge which is the bridge closest to National Welding, it's the bridge that will actually go over the busway. The concept with that replacement is that it will be a modular bridge that could be expanded in the future to provide left turn lanes into Central's property. We want to

keep our eye on that. Bring back the consideration of improvements for safety and economic development as far as Cedar and Maple Hill. Planning and Zoning Commission worked on this back in '95 and '96. It's been put on the sidelines but it may be time to bring this back in consideration of the traffic impacts further up on Alumni as long as the athletic fields can have safe access from parking to those fields.

Sidewalk connections are needed throughout town in many locations. There is opportunity for public transit service up on Kitts Lane. That's where Glen Oaks, Crown Ridge, Deer Run, that's a highly developed area and it could benefit from transit development as could expanding transit for older residents throughout the town.

Utility strategies, MDC almost ninety-eight percent of Newington is served by water and sewer performed by MDC. There are some areas where there could be some additional water pressure issues addressed. We're working on them with a region wide program for storm water infiltration, they have been going street by street in Newington to reduce that. We do have our engineering staff working on a long range, town wide storm water management plan which will, we're going basin by basin throughout the community and developing criteria and what needs to be done to upgrade our storm water system. A town that is ninety-two percent developed has a lot of impervious surface and need to catch up with some areas that are behind the times as far as adequate storm water capacity.

There are opportunities to partner with some private sector developers for additional possible cell towers at one or two locations with priority first for emergency communication services in those areas. We have gaps in a couple locations in town, southwest, down by Tremont and over the back side of Little Brook do not get good cell protection and service for emergency communications.

The future plan puts all those three components together, comes up with 123 strategies, and that is embodied in this future land use map, which is all the layers of the other maps that we showed you in one nutshell and the implementation strategies are your zoning map changes. You should base any future map changes, zoning regulations should be underpinned by your Plan of Conservation and Development. We have talked about this many times, you want to be able to touch base with your Plan as far as strategy and guidelines for coming back to whether a regulation change in the text or a map change makes sense from your long range plan, using your subdivision standards and regulations to promote sound development based on your plan, we don't have a lot of land left to subdivide. We don't have the big chunks on land that we had ten years ago, even then we didn't have a lot for subdivision.

8-24 Referrals, those are your public improvements that you coordinate with Town Council. It's important to fund these things. The Town Council is key in doing it's five year plan, both for operating and capital budgets, and then using the plan as a catalyst to go after state and federal grants, no matter what they might be. Whether they are conservation grants which we have been successful in getting in the past, or economic development grants for streetscape, anything like that.

That is the abbreviated version of the presentation. I'll stop there.

Chairman Hall: Thank you Ed. Any questions before we go to the public? We've seen this plan a couple of times, and this power point presentation, it's nice to see that. Going to the public, anyone wishing to speak in favor of this? Come forward, we have this set up in the front.

Atra Namus, 18 Deepwood Drive: I'm here basically as a follow up to the previous session regarding the change of zoning. I did spend a couple of hours last night reviewing the POCP that I down loaded off the web site. I am a thirty-nine year resident, I was born and raised in Newington. I own property on Adrian Avenue where I was born and raised and my wife and I just bought our new place on Deepwood Drive which we absolutely love. I very much appreciate this document and what it entails. I've learned quite a bit from it, as a long time resident there were still a lot of questions that I never knew existed. As far as future land use and open space, as was quite evident in the prior session, I think a fair amount of people in town really appreciate

whatever remaining space we have left. The farm that is located on Church Street for example, we just recently found it, and enjoy it quite a bit, my wife and I go for walks there. So, if anything can be done to preserve, in the next ten years, I know that Newington is a developed town, there is not a lot of space left, if we can re-use existing property, I know that we have a couple of Brownfields that need to be cleaned up or whatever, I think those would be fantastic opportunities once they are cleaned up. I know that it requires a considerable amount of time and expense, but they will have a lot of opportunities for the future. I appreciate everybody's time in letting me speak. Thank you.

Chairman Hall: Thank you. Anyone else wishing to speak in favor of the Plan of Development? Come forward, state your name and address, come up to the podium.

Alan Paskewicz, 300 Cambria Avenue: I'm in favor of it, and part of the reason is that I see this as a more comprehensive plan than we had in the past. Part of my past experience was on the work-study program for drafting the open space policy and implementing it in 1996 and now I see this comprehensive plan addressing the strategies in detail. So yes, I am totally in favor of it and look forward to it. Thank you.

Chairman Hall: Thank you. Anyone else wishing to speak in favor?

Eric Rothauser: Good evening, I'm with the Board of Trustees for the library. Thank you very much for putting together this plan. I am speaking in favor of it, and thank you for including the information regarding the library. There is only one aspect that we do have a concern about and that is opening Mill Street. It was closed for a reason, primarily because of the library concerns. I understand what Mr. Meehan is saying if parking is re-directed to the side of Mill Street, you wouldn't have the pedestrians walking across Mill Street, but I don't think Mill Street is the only issue. I believe that Cedar Street may be why we closed Mill Street to begin with, with the amount of speed coming down Cedar Street and the cars turning in, I'm not sure what kind of traffic issues can be done to slow that down, so at this point, we're concerned and we are hesitant regarding re-opening Mill Street, but we are very grateful for the library expansion being included, and with that one caveat about re-opening Mill Street, we very much appreciate it. Thank you.

Chairman Hall: Thank you. Anyone else wishing to speak in favor? Anyone else wishing to speak in opposition to the plan? Anyone wishing to speak, not for or against, but just to give us an opinion or a comment, come forward now, state your name and address for the record.

Matt Rinelli: Good evening Madam Chairman, my name is Matt Rinelli from Shipman and Goodwin and I'm here on behalf of the Humane Society and it's president Richard Johnston who is here with me. First of all, I want to thank you for the opportunity to speak. Having reviewed the draft plan I recognize the tremendous amount of work that has gone into it, staff as well as Commission members, and it is no easy task balancing the needs of the community with limited resources that are available today. So I commend you and I understand that you have difficult decisions to make. The decision that is first and foremost to my comments has to do with the use of the property on Cedar Mountain that was the site of the public hearing before this, regarding the application to re-zone to residential use. To put it bluntly, what you do here makes a big difference. If you go one way, it smoothes the path for re-zoning of that property, if you go another way it reinforces the commitment expressed in the prior POCD that would argue against re-zoning of the property, so these decisions have ramifications. The thing that I am struck by, on page 21 I believe it is of your existing POCD which sets forth some of the environmental open space commitments, and looking down the list on page 21, I see many visions that were set out in 1995 that came to pass, by 2010, 2009. There was acquiring the wetlands adjacent to I291, there was the Eddy Farm, there was the improvement of Old Highway next to Cedar Mountain for

a greenway. Your predecessors went through a similar exercise, they put these visions down and there was no guarantee that they would come to pass, but by putting them down, as the town planner indicated, these serve as a guidance factor, a guide post and lo and behold, many of them did. Not all of them. So I would urge you to give the same treatment to the property that was the subject of the prior public hearing. I think much of the testimony that you just heard speaks to the important quality of life benefits of open space, and particularly (inaudible) open space, like a trap rock ridge line. A beautiful, dramatic, sloping mountain side. I think you heard some people who's voices quivered a little bit when they testified, maybe because they were nervous but maybe also it really is different, a dramatically different piece of property, so when I think when you weigh the grand list needs, the development needs, all those needs, the quality of life need is hard to quantify, but please don't overlook it, and think of the residents that you just heard testify. Specifically then, I would just comment on Cedar Mountain specifically referenced as it was in the 1995 plan, on page 15, strategy one, the draft talks about the important natural resources and the steep slopes, this is similar to what is on page 2 in the 1995 plan which specifically calls out Cedar Mountain. It is that kind of recourse, it isn't like some of your open space, it deserves I think to be called out in this plan. In similarly on page 20 of the current plan, the corresponding change would be to eliminate the uncertainty and express a clear preference. Granted the property is zoned CD, but this document is a guidance document, what do you want to see happening? If you want to see that property remain open space, express it here. It may not happen. You can't force anyone to sell, but by putting it in the document, you set the table for it to happen. Those are the specific changes, maybe also add Cedar Mountain in the early vision statement on page one of the document as well. Those are my suggestions. Thank you very much.

Chairman Hall: Thank you. Anyone else wishing to speak?

Stanely Cohen: Thank you Madam Chairperson and Members of the Board. I own the property that was the subject of the prior hearing. I have spoken with the Humane Society before, in fact I wanted them to develop the property with us, but I own three other properties in Newington. In 1963 when I got out of law school I bought options on property. I own the Salem Village Apartments, the Gloucester Village Apartments, apartments at Bob's Furniture Store and I think all of those have been taken care of quite well over the forty some odd years that I have owned them. Prior speakers spoke of putting Cedar Mountain into your plan, we're asking that you allow us to develop Cedar Mountain in the best way possible. In your draft, on page 8, "while housing growth continues in Newington the rate of growth has slowed due to the low availability of residentially zoned land." You have an excellent opportunity to add to the housing stock for moderate income housing by a class builder like Toll Brothers. Most of the people who spoke didn't know that we have the right to put in a medical facility where they would be disturbed by the ambulance coming every hour or so with that type of facility, or an office building. Others didn't know that we are giving seven acres of the land to the town, we're not just going to make it open space, it's going to be given to the town, and it's the ridge line. Someone spoke about spot zoning. The Hunter Development project which we were in favor of, in fact, the last time that I ever spoke to this board was when Target put their project across from Salem Village and I came up here and spoke and said, we're in favor of it. People should be allowed to develop their own land, especially commercial land, and it's obviously commercial, especially residential land if it's obviously residential, if the town needs. We're asking that we be given a fair shake, the property cries out for residential development, you'll have plenty of protection and plenty of say over this type of development and we are asking that you continue to recognize the rights of property owners and that you allow us to develop the property. Thank you.

Chairman Hall: Thank you. Anyone else wishing to speak?

Ken Bower, 163 Olympia Avenue: I've been a Newington resident for about four years. I grew up in Connecticut and shortly after my wife and I got married we moved to Georgia and we lived in Georgia for about fifteen years. A lot of that time was spent in Atlanta where we experienced the building boom of Atlanta. If anybody has been there, it's a mess. The proposed future plan I think is great, obviously the people sitting in this room cannot be held responsible for the poor decisions that were made forty years ago. There is nothing that we can do about the past, we can influence the future. I think the, from what I have read of the plan, I haven't read the whole thing, but I've read a good part, and certainly the proposals that I've seen look great. I really think we need to look at re-developing some of the property that I would consider a blight, brownfields, whatever you want to call them, and I think that the plan that has been proposed is great. Building in places where there currently isn't anything is a poor decision, and I can speak from experience from the time that I spent in Atlanta. It's a mess, people don't want to see that, they don't appreciate it, one of the reasons that I left Georgia and came back here was because we don't have that here. I mean, it's very poor planning and we don't want people looking back fifty years from now, forty years from now and saying, gee, look at the poor decisions that they made in Newington. Thank you.

Chairman Hall: Anyone else wishing to speak? Any questions from the Commissioners, any comments. Again, I just want to thank Ed for the presentation and the document seems to be a highly readable, understandable document and pretty much states what we hope for the future, building on the past, and adding a few features such as the transit oriented design, some of the trails that we don't have now, that's another thing to consider, as well as carrying forth the things that have worked in the past and we hope to see carried into the future as well. I want to thank you for the time and effort you have put into it, and also the people around the table, all the input you had. We did go over this several times around this table. Any comments, questions? I am going to leave this open only because we did not hear back from the Town Council yet, and just in case, next time, there are people who couldn't make it tonight or whatever, maybe will have seen it on the web, maybe heard us talking about it tonight, if there was any of that that was televised, so I am going to leave it open for another meeting.

III. PUBLIC PARTICIPATION (relative to items not listed on the Agenda-each speaker limited to two minutes.)

Michael Roche, 604 Church St: I was present at the last meeting in regards to Three Angels Church and I just have a question in regards to the proposal that was put on the table for the re-location of the heating and air conditioning system. I just want to make you folks aware that there was a law suit that was done by myself and one of my neighbors in regards to the moving of the system, which we agreed upon. It just wasn't the moving of the system, it was the system as a whole. That was the reason for the lawsuit and what the system represented. I just want to make that clear because going forward we received a notice from the property owner's attorney to sign a release in regards to that fact, and we're not willing to do that. I don't know that that represents the comments made at the last meeting in regard to the HVAC being a dead issue. Can you explain what that meant? Am I able to ask that question?

Chairman Hall: We're talking about that under Old Business tonight. That is considered part of the agenda, so that's not something that we are able.....

Michael Roche: But the fact of the law suit being presented and agreements being made, and the court overseeing the documents in regards to the system. Is that clear to the board in that regard?

Chairman Hall: We don't know anything about this lawsuit, because.....

Commissioner Pane: Is the building department aware that they can't redesign the system without the approval of the neighbors basically? Is the building department aware of that?

Ed Meehan: There needs to be an addendum to the stipulated agreement, that's what you are saying, right?

Michael Roche: That is what we received from our attorney from their attorney, asking us to sign a release to change the system. As far as my impression was that because of the lawsuit and the court ordered agreement that we signed was to relocate from one side as well as to maintain the integrity of the system. That's all part and parcel of the same thing.

Ed Meehan: From what I understand and this could be a legal answer to your question, because it involves an outside counsel, Justin Clark who is the attorney representing the Town of Newington in this situation. If one of the parties disagrees with one of the other parties you have the right to go back into court and re-open this. So if they go ahead, and you don't agree that their outside compressors are going to satisfy what you were concerned with as far as noise, or whatever reason.....

Michael Roche: That's not the issue.

Ed Meehan: Okay, whatever reason, you can go back into court and re-open this at the court level. That's the way it was explained to me.

Michael Roche: Okay, my question is, is that you as a council can approve that request even though there is a stipulation in place that they are asking us to sign a release in regard to that court order?

Ed Meehan: That is not on the agenda. What is on the agenda before Planning and Zoning are the changes to the building architecture. Not the issue of the noise, the wells, or the units, that was not part of what was on the public hearing that was closed. The Commission is voting on the steeple, the skylights, and the change of a door to a window.

Michael Roche: My question is, my question last time and your response to it was, that is a dead issue and I still don't quite understand what a dead issue means.

Ed Meehan: I don't remember.....

Michael Roche: At the end of the meeting, your comment was, and I think Madam Chairman, you asked the question, that the system itself, in regards to the HVAC which was part of their proposal, coming forward, was to change the system. And I said at the last meeting, was that we would be glad to sit down and have conversations with regards to that fact, because the court order was based upon relocation of the outside system, and the system as a whole, because that is where all the basis of all the discussions and all the determining factors were necessary to approve it.

Ed Meehan: I don't know about all of the fine points of that, again, this is your right, for your attorney to go back and reopen that stipulated agreement. I'm not sure that it said that it had to be in a hole. I know, the requirements, the conditions that I recall were that they had to move it from the Church Street corner to the corner of Pane and Church, they had to meet decibel levels, the system was going to be tested, they had to continue with their landscaping and their fencing. Those were the criteria that I recall and they submitted a plan to address that which was their site plan, showing the relocation to the corner, this is back in March that the Commission brought

back through site plan review and signed, subsequent to the court agreement between the parties. Now what is before the Commission tonight is not reopening that site plan, it's going back to earlier special exceptions which said, as a condition of approval for the church, if architectural changes were made that had to come back to the Commission and the architectural changes that are before the Commission tonight are the steeple, the skylights and the window and doors. It's not reopening the court stipulated agreement. That's between, if you don't want to sign that, and you want to block them from putting the air conditioning or air equipment handling equipment at grade, where they are shown on the approved plan, the locations, you need to go back and talk to your attorney about going back into court and enforcing them.

Commissioner Pane: Excuse me, Madam Chairman, but if there is a court order for something to be done a certain way, what gives the building department the right to let the applicant change it without the approval of the abutting neighbors?

Ed Meehan: Well, that's where I think the parties need to see what the strings are on that stipulated agreement. Does that include does it have to be underground, does it include.....

Commissioner Pane: Exactly, and also the Town shouldn't also just blatantly.....

Ed Meehan: The town isn't doing anything. I'm not the attorney involved in this. The attorney who represented the parties who took the suit and stipulated to the agreements are the Church, the Town, and two property owners. I believe in the stipulated agreement it says, if any party disagrees, with anything else, they have the right to go back. And that's what a property owner, an abutting property owner can do.

Commissioner Pane: And is the applicant asking for a change from what the site plan and what the neighbors.....

Ed Meehan: They are showing just as Mr. Roche explained, the same location, but above grade, behind.....

Commissioner Pane: It's not the same.

Ed Meehan: Well, that's where they have to go back, you say it's not the same, he may say it's not the same.....

Commissioner Pane: It's not the same as the site plan.

Ed Meehan: It's the exact same location.

Commissioner Pane: It's not the same as the site plan.

Ed Meehan: You take that to court. I can't argue.....

Commissioner Pane: You know, this neighbor, and other neighbors, have been flooded out so many times, they've been ignored by the town, I mean, this is really wrong. Maybe we should have the Town Attorney come in here and see what is going on with this. Because this is really wrong of the Town of Newington.

Ed Meehan: That's an option, the town attorney recused himself from this. We have a special counsel which was appointed by I guess the Mayor on this. He's still in the wings, if you want to bring him back.....the judge has to arbitrate it.

Commissioner Pane: But maybe the Town of Newington shouldn't get in the middle of it either.....

Ed Meehan: We are in the middle of it.

Commissioner Pane: And follow the plan, follow the site plan exactly. Otherwise let the applicant take it to court. Why does it always have to be the abutting property to take them to court?

Ed Meehan: Well, the town is following the site plan that was approved last March. This Commission voted on a site plan and that's the site plan that they have to follow.

Commissioner Pane: But you are making changes to it.

Ed Meehan: They are making changes.

Commissioner Pane: They are making changes and they are presenting it to the Building Department and the Building Department is okaying it.

Ed Meehan: No, because they have not applied for any permits for any HVAC system yet. You are way ahead of yourself.

Commissioner Pane: I just want to make sure that the Building Department is aware that there is a court order and that it should be followed, the site plan should be followed to a T.

Ed Meehan: I'm sure they are.

Commissioner Pane: Otherwise the Town of Newington is in jeopardy.

Ed Meehan: The building department has been involved in this more than the planning staff because the whole issue was over the foundation, as Mr. Roche mentioned, the mechanicals underground, those are all building issues. There were not any zoning issues involved because they met all of the site plan requirements for side yard setbacks and location. The other issue was the potential noise ordinance violation, which there is a condition in the stipulated agreement with the neighbors, as well as the Planning and Zoning Commission that before those things are turned on, they are going to be tested.

Commissioner Pane: Madam Chairman, I also have a question for the Town Planner. Whether or not the Town Planner or the Town Engineer has gotten back to the neighbors on the steepness of the slope that abuts the abutting property owner. It exceeds a two to one slope. Is that something that has changed, and are they going to get back to the neighbors, because they have asked about that. That slope, that they keep dumping gravel onto exceeds a two to one slope and that is not allowed in our zoning regulations.

Ed Meehan: Let me tell you, this is an on-going construction project right now. What you see out there is not finished grade. They are going to have to grade the site to the approved site plan which the Commission approved last March. If they don't do that, they either have to come back and substantially change the plan, or come in with reasons why they can't meet it. Right now it is steep. The whole place is rough graded, but don't take that, and I know you don't because you know the construction business, as being the final grade. They have plans approved for slope control all along that property line. When they get to it, they will have to meet those requirements.

Commissioner Pane: I realize that, but the whole thing is a big cluster you know what, over there. There is processed stone over there they brought in, okay, and it hasn't been compacted, it's

been put in two foot lifts, totally against building code regulations, I don't know what our building inspectors are doing over there. They have also dropped gravel over there on top of processed. It's contaminated the process with gravel, with clay. I don't know what is going on over there and I know that it is very difficult for the town, okay, but somebody has to go over there, and tell them to get the thing done right, and it doesn't look right now, before the process was put on, they put a six foot level of gravel in with no lifts. That's not acceptable.

Chairman Hall: We're getting off the track here, Mr. Roche has asked a question about whether or not we know about a law suit. I think now we know about the law suit, I think now we know that there is a disagreement as to whether or not it is going to be signed off on, that was the question. Tom, you had a question?

Commissioner Ganley: Just a very simple one. I think that we as a Commission have to be very careful that any remarks that we make, either pro or con, or perceived as pro or con, go into our record and to be used by one or more parties against us. It's a legal issue and quite frankly, this is not the forum for it. It simply is not. We are a regulatory agency, the position was very clearly stated, attorneys have difference of opinions in another forum and that is where that kind of an argument belongs. Thank you.

Chairman Hall: My question is, was the Town of Newington made a party to this suit?

Ed Meehan: Yes. The Town of Newington signed off on this....

Chairman Hall: The stipulated agreement.

Ed Meehan: Yes.

Chairman Hall: So that we also have to sign off on what Mr. Roche is saying he has to sign off on?

Ed Meehan: I believe so.

Chairman Hall: Okay, now we are aware of the situation, all right, and I'm sure the building department and the planning department, when the time comes for that section to be handled, we are all informed at this point.

Michael Roche: I appreciate that very much. When I received the notification of the last public hearing, and I didn't bring it with me tonight, but I believe that there was a section of it that referred to the HVAC, to change the design of the system, so my question is, if the zoning commission doesn't have the jurisdiction or the rights or whatever the case may be, then why put it as far as, listing it as a change of design of the system. If I'm being told tonight that it is a building department issue, then why should it be listed as far as what was on the agenda in regards to their request?

Chairman Hall: That was the last time? Because right now we're talking about steeples, doors, and skylights.

Michael Roche: What I received in the mail....

Chairman Hall: Last time, or for this meeting?

Michael Roche: No, last time, but it was part of the agenda. What I'm asking tonight is, Mr. Meehan said that the HVAC has not been approved but yet when I received the letter from you

folks, it was, the change of the design of the system which facilitated getting rid of the wells, so if that's not the case.....

Chairman Hall: They are two different issues, aren't they?

Ed Meehan: The call of the last public hearing was on the Special Exception for architectural changes.

Michael Roche: Could you read that please, because I believe that mentioned the HVAC.

Ed Meehan: No, it says, request for Special Exception amendment Petition 25-08, that was the one back in March, condition number four, changes to architectural elevations. That's what the Commission directed staff to do, is to go back and tell the applicant that those changes were significant enough to warrant them to submit an application for public hearing.

Michael Roche: And this is your mail out, this is.....

Ed Meehan: This is the agenda from September 23rd.

Chairman Hall: That is what you would get, notification that we were going to be talking about it.

Ed Meehan: This is the exact same thing as the.....

Michael Roche: And there is no mention in there of the HVAC units?

Ed Meehan: No.

Chairman Hall: I don't remember talking about HVAC for a couple of months.

Michael Roche: I brought that up at the last meeting, and that's when you guys said it was a dead issue, so it must.....

Chairman Hall: I don't know that we said dead issue, but we may have said that is not the issue we are addressing this evening because again, just as this evening, we are talking about steeple, skylights, door/window. If you can find that, the communication, bring it back to us and then maybe we will know.

Michael Roche: I appreciate your time.

Chairman Hall: Thank you.

IV. MINUTES

September 23, Regular Meeting

Commissioner Pruett moved to accept the minutes of the September 23, 2009 Regular Meeting. The motion was seconded by Commissioner Ganley. The motion was for the minutes except for page 31 which was distributed at the October 14, 2009 meeting. The vote was unanimously in favor of the motion, with seven voting YES

V. COMMUNICATIONS AND REPORTS

None

VI. NEW BUSINESS

None

Commissioner Pane: Madam Chairman, could we have the Planner look into the gateway sign on Cedar Street? The plantings that were planted there by the town have grown so high that they are blocking the sign. Thank you.

Chairman Hall: Which gateway is that?

Commissioner Pane: On Cedar Street, heading up the mountain.

Ed Meehan: Across from Constance Leigh?

Commissioner Pane: Yes. It's the blue, coming down the Cedar Mountain hill, towards the center of town.

Ed Meehan: Hawley is on the corner and Constance Leigh is on the other corner.

Commissioner Pane: Yes. Thank you very much

VII. OLD BUSINESS

- A. PETITION 28-09 – 580 Church Street, Three Angels Church Seventh Day Adventist Church, Southern New England Conference Association, Seventh Day Adventist, owner, represented by Al Chatman, P.O. Box 330714, West Hartford, CT 06133, request for Special Exception amendment Petition 26-08 condition #4, “changes to architectural elevations”, R-20 Zone District. Public hearing closed September 23, 2009. Sixty five day decision period ends November 27, 2009.**

Commissioner Pane: I'd rather not read this Madam Chairman.

Commissioner Casasanta moved that PETITION 28-09 – 580 Church Street, Three Angels Church Seventh Day Adventist Church, Southern New England Conference Association, Seventh Day Adventist, owner, represented by Al Chatman, P.O. Box 330714, West Hartford, CT 06133, request for Special Exception amendment Petition 26-08 condition #4, “changes to architectural elevations” limited to the elimination of the steeple, two skylights and changing a pass door to a window as shown on revised building elevations prepared by Zared Design Development and Planning, dated June 11, 2009, Sheets A.4, A.5 and A.6 be approved.

The motion was seconded by Commissioner Ganley

Commissioner Pane: Madam Chairman, I just think that this is, I'm not in agreement with this, Madam Chairman, the approval on this. I believe that the applicant has come in twice before and had all these things on there, I would be subject to amending this, but the way that you have written the motion, there is either approval or denial, so I would have to vote for denial of this based on the fact that this has been brought in twice before and the neighbors have approved the

architectural designs the way that they were brought in and presented to this Commission, and I think this Commission should hold to that. Thank you, Madam Chairman.

Commissioner Kornichuk: I have to say, I agree with Domenic. One of my main problems with this is that most of these things were already done before they even came to us about these changes. I, deep down inside, wish there could have been an agreement made where one gave something, the other gave something, or whatever, but as far as this, as Domenic said, either you have to approve this, or deny it, it leaves me with no choice but I guess I would have to say I would have to deny it myself.

Chairman Hall: Other discussion?

Commissioner Pruet: Just a point of clarification, it's an architectural change, in the past, maybe Ed could elaborate on this, did they go before the Planning Department or the Engineering Department to get this approved and in the past, has architectural design been under a motion like this been changed, a dramatic change in the past, or.....

Ed Meehan: Well, this is a church, by Special Exception in a residential zone. So when this originally came in, 2005 I guess now, in granting the Special Exception, the Commission was presented with a set of exterior elevations that represented the church in a certain design at that corner. It had a portico, steeple, window configuration, and so forth. That's what the Commission and the neighbors were represented. There were other Special Exception criteria that was part of the approval, as well as a companion site plan. You know, we all know the project got off the rails, it was mishandled, not properly managed for going on two years, starting with the foundation on up. Long story short is, we ended up in court, the stipulated agreement was set, and as a part of the stipulated agreement, they made changes to their site plan, to relocate the HVAC exterior units, they also hired new professionals. A new architectural firm that redrew the architecture. They brought back a church, window configuration was slightly different, the exterior clapboards were different, but the main elements of the shape of the building and the portico and the steeple and the skylights were still the same. One of those items of controversy is part of this discussion among the church, the neighbor and the town, was the issue of a kitchen vent, a stacked vent. It wasn't needed, why wasn't it there? That was an architectural issue as well as a building and fire code issue, so when the Commission approved this, and I don't want to beat this to death, but, the Commission approved the plans again, last March, the same initial Special Exception, it goes back to 2005 that the Commission reserved the right to review any changes to the architecture should they happen, was left in place, to be consistent with the first approval. Between last March, and this July, the church took it upon themselves to construct the building without the sky lights, to move the door, and the window, and they didn't put the steeple on. That was called to their attention by building and staff. What are you doing, we have a set of plans, this is the drawing. Well, we don't think they are significant. That's when I brought it to the Commission back in July. What, you know, it's not my call, it's your call, you directed that you thought it was significant, that got them back before you as a special exception. Has this happened before? Not to my recollection, where the Commission felt the change was significant enough to come back to warrant a public hearing that they had to start over. Certainly you see conceptual plans whether it's an LA Fitness Club or a Sam's, Stew Leonard's, it doesn't come out exactly as the architects draw it. But if, let's say Stew Leonard's decided that they were going to eliminate the silo, maybe the Commission would have said, well, we thought we were going to get a silo. You might have said, we don't care. I don't know. But that is why they are back before you. To say that a church has to have a steeple, I think you are on very thin ice, whether you think it is architecturally correct or not. You are tampering with the religious freedom act, you are tampering with the fact that there are precedent of many churches and places of worship in Newington without steeples.

Commissioner Pane: Nobody said that, nobody inferred that.

Ed Meehan: But it's been said.

Commissioner Pane: Nobody on this Commission has ever said that.

Ed Meehan: It was brought up at the original public hearing.

Commissioner Pane: Maybe by residents, not by this Commission.

Ed Meehan: It's in the record.

Commissioner Pane: I don't think by this Commission.

Ed Meehan: We can check that, but I'm giving you some recommendations, take it for what it's worth, that however you feel strong about whether they went ahead and did this or not, and you want a steeple or you don't want a steeple, I don't think you have, under zoning, the right to dictate that they have a steeple on that church, irregardless of the special exception. If we had an architectural design review board, you might have stronger footing, if it was in historic district, you certainly would have stronger footing, but the fact that they made these changes, I see our Town Attorney there, I know he doesn't want to get involved in this case, because he recused himself, but you may want to get outside counsel on this before you vote on it.

Commissioner Lenares: Ed, you said that the changes that were made, even though they done, were not maybe to some significant, what then would qualify a significant change.

Ed Meehan: That's what you guys have to....

Commissioner Lenares: We're dealing with, not one, maybe they put a door instead of a window, but you're talking about approved plans that were approved by the former Commission, because I wasn't here when some of this stuff was going on, the neighbors, and then they made three changes, and then there is a question on whether the air conditioning was a change or not, so you are talking about, door to window, steeple, sky lights, air conditioning, it's getting to be a little bit of a list. I mean, at some point, you have to call it significant.

Ed Meehan: I know that the air conditioner wasn't on the list. But that is why I came back, as an informational report, I think it was in July, to get the sense of the Commission, the consensus of the Commission. If you had said, no, these are not significant, we can live with them, we wouldn't be talking about this tonight, but the consensus was, these may be significant, we started out through a public hearing process, the neighbors had involvement with a public hearing process, as a matter of protocol you felt that you wanted to bring it back, these changes, to the public hearing process. That's what you have done. You have closed the hearing, it is now before you for a vote. It's your own opinion, personally if you feel that these are significant or not. It's not staff's opinion, it's your opinion and you felt they were, either because you wanted to follow procedure and protocol, or legitimate you felt substantive these were changes that you were for or against. That is up to you to decide.

Commissioner Lenares: I just think that there are a lot of businesses in this town which someone who sits on the Commission might own one, or not own one, in another town, or this town, but

people go to work every day that own a business and they follow the rules and regulations. I do it every day. I would like to put maybe a third, second floor on my building, but you know what, I have to follow what the rules and regulations are set for and I think the word that we should be discussing is the consistency factor. They came before the board, their plans were approved, this is what we should stick to. Thank you.

Commissioner Casasanta: I thought about this very long, and very hard, because I share the anger and frustration with many of the Commissioners here in terms of how the applicant has already gone about and made the changes that they are now looking for permission to make. It disturbs me significantly that the only recourse that we would have would be to deny this particular application, because Lord knows, I would like to see us be able to do something else, but that's not in the cards, so we won't go down that road. But also part of the thought process was, I had to separate, at least for myself, and I'm not speaking for anybody else here, I had to separate this into two issues. Issue number one, was what they were requesting, and issue number two is what they did. And when I looked at issue number one, what they are asking for, I said to myself, had they done the right thing, had they gone through the proper channels and come to us first, would I approve their request or not? And after thinking about it, yes, I would approve their request, if they had come to us first, but they didn't. So now the thing is, is because they didn't come to us first, is that strong enough to say, no, you've got to put it back. And honestly, I'm not convinced that it is. I mean I really wish that we could do something else, but we can't, but I also want to speak for the record, because unfortunately the applicant isn't here, but I want the applicant to know, and I also want future applicants to know that if this Commission decides to approve this request, that we're not doing it because the horse has already left the barn, we're not doing it to rubber stamp what they have already done. That it's, okay we have decided that yeah, they didn't follow procedure, but what they are requesting was reasonable enough anyway. I don't want this applicant, or future applicants to think that the way to do an end run around this Commission is to do what you want to do and then ask for permission. I just wanted that on the record so that there would be no misconceptions and no miscommunications regarding that. Thank you.

Chairman Hall: Anyone else?

Commissioner Camerota: I think exactly what Mike just said is warning to the public. It's my biggest concern that somehow we are now telling people that it's okay just to ignore the rules, and we are setting a precedent that you know, we'll consider your petition anyway, we'll consider your changes, even though you didn't bother to follow proper procedure and come before the Commission first. I don't know how we resolve that issue.

Commissioner Ganley: There is an interesting parallel, at the time it was called in-law apartments, at that time.

Commissioner Camerota: I still think it's being called that.

Commissioner Ganley: Yes, I think that is the accidental name that they still attribute to it. There was, and quite frankly they were illegal in the town, but as the houses were being sold, in one instance came before us, if you recall, they came in after the fact and said, look we've got this thing, we've had it for several years, now we are selling the house, we want you to say it's okay for us to have it. And of course, we did.

Commissioner Camerota: But that's very different, they were.....

Commissioner Ganley: But it was an after the fact approval of what they already had in the house.

Commissioner Camerota: But when they had it, oh it wasn't legal.....

Commissioner Ganley: It wasn't legal at the time, but that is sort of a parallel to what, and if we were to be confronted with this again, I would suspect that as these, now as the accessory apartments are discovered, that we'll see people up here saying, look, we've had this thing, it was put in by my cousin, etc., I'm selling the house, will you approve it, because now it's legal. And we probably will say okay. So, we're not really off the mark, I don't think.

Commissioner Camerota: I still feel as though.....

Commissioner Ganley: I don't either, but we're not out on a limb with this.

Commissioner Pane: Don't lose the fact that this is a special exception in a residential zone. They didn't have a right to it, we approved this by special exception meaning that we had to protect the residential properties at the highest regard and commit to certain standards and conditions, okay, of approval, and they presented two plans to us with everything on it that they had and that is what the public looked at, and that is the reason that I am voting no on this because it did not, they did not present this originally. If they had presented this originally this way, then maybe I would have voted yes for that. Then the public would have had a chance to look at it and everything, but that's the reason, because it's a special exception. In our regulations we have to hold the special exception at the highest regard for our residential property. Thank you Madam Chairman.

Chairman Hall: Thank you. I look at this possibly a little bit differently because of building that I see getting done constantly. I'm not saying that what they did was correct in the sense of, go ahead and do something, and then come and ask for permission, but I do know that building projects of all sizes, shapes and types evolve as they go. There are very few people who build a house who end up with exactly the house at the end that they thought they were going to have when they started. They had a set of plans, they thought they were going to do this, they thought they were going to do that, and as it started to evolve, they realized, well, maybe this would actually work better. Maybe this would look better, and therefore things change. With this particular structure, changing a door for a window, and eliminating sky lights I don't think changes the character of the building significantly to the point where I would say, that absolutely is not what it was intended to be. The fact that there is no steeple also doesn't concern me too much, although at the beginning it seemed like a nice structure on the roof that they built, but the roof doesn't even look exactly as the plan did, that would lead up to that steeple, so in a way, plunking a steeple on what they have right now might not look that great. On Church Street alone, the Methodist Church, Holy Spirit, the Synagogue, the Jehovah Witness are all places of worship. Not one of them has a steeple. Each of them has signage that directs our eye to the fact that it is what it is, whether it be B'Nai Shalom, Holy Sprit, Kingdome Hall of Jehovah Witness, United Methodist Church, so that we know what they are by their signage. I don't think that stopping this change is good for the overall project. I want to see this project finished. I want that more than anything. I want it to be a completed project, I want it never to come across our table again, I want it done. I don't think the changes that they are asking for are significant. I don't like the fact that it is after the fact.

Commissioner Ganley: Call the vote.

Chairman Hall: Anyone else have any comments?

The vote was in favor of the motion, with three voting yes, two voting no, (Pane, Kornichuk) and two abstentions (Pruett, Camerota).

Chairman Hall: We don't have enough to carry it, let's put it that way.

Ed Meehan: Well, three to two, are you counting the abstentions?

Chairman Hall: Well, abstention to me is neither yea or nay. I mean, I don't think we have a mandate, shall we say?

Commissioner Casasanta: Do we need four for it to carry?

Ed Meehan: It's a three to two vote. Three in favor, two opposed, two abstentions.

Chairman Hall: Well, if you want to do a simple majority.

Ed Meehan: This does not require a two thirds vote, it just requires a majority vote. It's not like, if there was a zone change and they petitioned, twenty percent of the area petitioned against the zone change, then it requires a two thirds vote. I believe a three to two carries it, with the abstentions, but the Chair rules on it, not me.

Commissioner Lenares: Isn't there a set rule or something, no matter what it is, when there are abstentions involved, what is the ruling?

Ed Meehan: Majority rule, the majority vote of the Commission members voting. Rules are separate under petitions when you amend the zoning map, or zoning regulations and completely different if it was ZBA where it has to be four votes. I don't want to step in and take the role of the chair, but normally that is what happens.

Chairman Hall: Well, it would carry, my concern is this is not the last time we are going to see something like this, and I would like to have some kind of feeling that we are all going in the same direction.

Commissioner Pane: Maybe if we changed the motion, Madam Chairman, I mean,

Chairman Hall: How do you want to change the motion? Tell me how you want to change the motion?

Commissioner Pane: Well, maybe the other Commissioners felt that a couple of the items they could see a waiver, but maybe not for the other one, or something, or maybe waiving the sky light and the door is no big deal, but put the steeple up. You gave us one motion to approve something. Once again, once again.....

Chairman Hall: I know, you say this, I understand....

Commissioner Pane: Once again Madam Chairman you have almost prejudged this yourself by giving all of us one motion.

Chairman Hall: We have talked about this.

Commissioner Pane: Madam Chairman, it's never been done that way, I have been on this Commission for ten years, no one has ever done it that way, it's your right as Chairman to do it that way, it's wrong, in my opinion, you want to keep your opinion, no problem.

Chairman Hall: Okay. The abstentions, what would make you happy?

Commissioner Pruett: I'm torn. I usually make a decision, I have no problems making it...

Chairman Hall: I think we are all torn on this.

Commissioner Pruett: What bothers me, so many good points here. What bothers me is that the contractor and the church went ahead and did three changes, okay, I respect Ed's opinion, especially what he said about the steeple and the church, in that it's not significant. However, in looking at the property owners and this thing has been going on for so long now, and I think the property owners accepted the fact that they were going to do, A.B. and C., including the steeple, so I'm torn with that. So, I would like to see either a legal opinion about that, or some kind of change in this to make my vote a little bit easier.

Chairman Hall: I just don't think that this is a project that any of us have bought into unfortunately because of the way that it has been done. However, it's here and we have to deal with it as it is and what's going to change this that is going to make people happy? Are you saying that the steeple is going to make a difference?

Commissioner Kornichuk: We can't say that.

Commissioner Pane: That was the approved plan Madam Chairman and you are doing an injustice to the property owners through this special exception. And for you to say that this property, this development might not get finished if you don't approve this.....

Chairman Hall: I didn't say....

Commissioner Pane: You said that, Madam Chairman, yes you did, Madam Chairman.

Chairman Hall: I said I want to see it completed.

Commissioner Pane: Right, you gave the impression that if you didn't approve this, that this thing might not get developed.

Chairman Hall: That was not the intention, my intention was to move it forward because we seem to be hung up on issues of design and therefore they aren't doing anything over there, waiting for us to make up.....

Commissioner Pane: They are working over there Madam Chairman, I beg your pardon, they are working over there.

Chairman Hall: This week.

Commissioner Pane: Yes, Madam Chairman.

Chairman Hall: I know this week, but I.....

Commissioner Pane: They have been working, they have been working, work has not stopped, Madam Chairman.

Commissioner Camerota: I think I'm in the same boat as Dave. I don't want to just give them this carte blanche ability to go ahead and make changes without coming back to the Commission, especially on this project because it happened on so many issues, and I'm also, I understand

your points, Chairman Hall about the project possibly not moving forward, and not being completed. Some of these could cause additional construction issues, maybe doing the sky lights, I haven't been by there lately if they have done the roofing already, and I don't want to see that happen either. But I have a real problem approving it, knowing how the project has gone, the neighbors concerns, there has been litigation, and fact that they just didn't bother to check with the building department before doing this, the changes to see if they were significant or see what the Commission thought, did they want them to come back. They should have known that we probably would have wanted them to come back, given the history. I mean, they have been here, how many times? I've only been on the Commission two years and they have probably been here four times.

Commissioner Pane: Madam Chairman, as far as construction goes, there's a chimney that they have left off on the west side of the building. In order for them to put that chimney up, they have to cut into the building and reflash it, so that is no different than adding skylights. If this motion was different, I can see where Pete, Commissioner Kornichuk was mentioning about well, we could waive the sky lights and the door because they have already moved the door but you know, we thought that the steeple was a substantial change from what the residents saw when they came in.

Commissioner Camerota: The problem, my concern is what Ed Meehan brought up that somehow we are infringing on someone's first amendment rights. That is a big concern for me, so if we are considering the steeple, I would follow Dave in looking for a legal opinion.

Commissioner Lenares: I could care less about their freedom, religious acts, whatever, I'm not going to tell anybody how to run their church or what denotes a church. The fact of the matter is, and I pointed to the lady when she was here, and the gentleman from the church, I said, the steeple was approved. You can read the minutes, I noted in the last meeting, I would have the same opinion if they came and the initial plans were for no steeple, and now wanted to put one. I would have the same opinion, and if your decision on whether to approve something or not, by reading what this petition is, you would have it, if you are not sure about this, not sure about that, you would have to, in all consciousness would have to vote no, if you don't think the proper things were done with agreements with this board, or what the neighbors consented upon. I think it's a no brainer, and as I said, I'm not telling anybody what the church should look like, but it's what they brought, and I've got the same opinion, either way. That's just me, being impartial.

Commissioner Pruett: I'm not a lawyer, but I respect what Ed had to say before, if their design didn't have a steeple, and then, agreeing with what Dave said, and they came in and said I want to put a steeple on, you know, there's a problem. Their original plan called for a steeple, the public was here, they heard about it, the property owners heard about it, now they don't want to put it in there, in my opinion, that is a significant change. That's my opinion, and that's why I'm torn about this. If I had to vote again, I'd probably vote no because of that.

Ed Meehan: That's why they are here, you said, back in August that you felt it was, by consensus a change that warranted a public hearing. You had your public hearing, you are talking about the results of that public hearing, and you made a vote. I think the vote passed, three to two, but that's up to the chair, three to two is a passed vote, but.....

Commissioner Ganley: The steeple or a bell tower or a minaret or a dome, or a Star of David, denotes a type of religion in almost all instances, in my upbringing, a steeple denotes a Christian, and I guess I'm wondering if someone came in and they had a mosque, they want to put up two minarets and then they decide, gee, maybe we can get away with just one, because that is what the flock, or congregation, or whatever they call themselves, wants, would we be in the same kind of dilemma? We would be telling them what they should look like in their place of worship. If

they said, we want to put the Star of David over the door, or a large Star of David and then said, well, actually maybe we don't want to put the Star of David up, they have to come back, we would say, well, you have to put the Star of David up because your plans initially had it, or a crescent moon, or something like that. I think we have to be very careful telling people of faith how....

Commissioner Pane: We're not, we're telling.....

Commissioner Ganley: May I finish please

Commissioner Pane: No, I like to interrupt you, Tom, sometimes you go off, never never land.

Chairman Hall: Well, that's not only one person's privilege, so....

Commissioner Ganley: So, we are talking about a congregation who wants their place of worship to look a certain way, and evidently, for reasons known only to themselves, they prefer not to have a steeple, it doesn't make any difference particularly why, but they would rather not have one, so that is what we are voting on. Shall I shall have a steeple, shall we make them have a steeple, shall we make them have Star of David, shall we make them have a dome, shall we make them have a bell tower, what shall we make them have if they don't want to have it?

Commissioner Kornichuk: Excuse me Tom, but there are three things on there. You are just pointing to the steeple. I never, never said the steeple, no nothing against you, but you are just saying the steeple, the steeple, and the statues.....

Commissioner Ganley: Well, I can go into stained glass windows....

Chairman Hall: Obviously this church has divided us, and that concerns me, as well. This is not a mandate. We have people who say it's okay, a couple who say it's definitely not okay, and then we have some that are on the fence. To me, this is not enough of a mandate, although it would carry with a three to two. Can we revisit this again at the next meeting, give it kind of a cooling off period and then bring it back.

Ed Meehan: Again, this is Robert's Rules in how you operate, and you passed the motion, I think, you could put a motion on the table to rescind the motion you just passed and bring it back, you haven't had any interruption in meeting schedule. I think it would have to be someone on the prevailing side, from my recollection, I'm not a parliamentarian. If you feel uncomfortable, you have your town attorney out there, does he want to speak to this, procedurally, not substantively about this church.

Attorney Ancona: You need, and this is not my call, this motion passed three to two. If the Commission in it's quorum, it could pass two to one, one to nothing. You need a motion to rescind....

Ed Meehan: The prevailing side needs a motion to rescind.

Attorney Ancona: Exactly. And that is the only way it can be done.

Ed Meehan: One of the three Commission members who voted needs to say, okay, I think I'll reconsider, we had a good discussion, let's put it back on the corner.

Commissioner Casasanta: Having made the motion, I make a motion to rescind the vote and rescind the original motion.

Chairman Hall: We need a second, if someone is willing to second it.

Commissioner Kornichuk: Yeah, but who can, only the people who voted in favor can.....

Ed Meehan: I'm not sure about that.

Commissioner Kornichuk: I'll second it if I can, but I voted against it, so I don't know, procedurally,

Attorney Ancona: I don't see how the motion could die for the lack of a second. I think in this situation anybody, I would say anybody could second that motion.

Commissioner Kornichuk: Then I'll second it.

Chairman Hall: Discussion. What would make those who are either on the fence, or willing to change their mind, what would make it different. What would make it different next time around? I mean, I think we all agree that we don't like the fact that they did it without asking, I think that's a given. What we can't decide on is, is this significant enough to make them to back and do it, or is it okay to let them go forward? I think that is what the issue is, I think we are all uncomfortable with the fact of the way that they did it, but it is the final product that we need to discuss. Is it going to be significantly different to go back to the plan the way it was, or is it okay to leave it with the new form and let it go forward.

Commissioner Casasanta: I just think, from what I have gathered from the discussion that we had, there are three changes that were presented. I think that some people think that some of the changes that they want to make are not significant, but some of the changes that they do want to make are significant. So I think from what I gathered is, that they would be okay with approving the changes that they felt weren't significant, but not okay that they thought are, so I think maybe we should hash out which of the three are and are not significant changes.

Chairman Hall: All right, let's start with the door versus window. How many felt that was a significant change? That they would not vote for. I mean, it makes sense. They changed a door for a window.

Ed Meehan: I can put the elevations up.

Chairman Hall: Sure. They changed a window for a door.

Commissioner Camerota: I don't see that that is the question. I think the question is even if we think it's significant, are we going to let them do it.

Chairman Hall: That's what we are talking about right now. If it came back that the window and door, can you approve that?

Commissioner Camerota: But the way that you phrased it was, is that significant enough that you won't vote for it, and that's not.....

Chairman Hall: I said, what is significant enough that you won't vote for it, and then I said, what about the door and the window?

Commissioner Camerota: Well, I think it's a change, but it is a change that would be acceptable to me.

Chairman Hall: Is that a change that would be acceptable around the table.

Commissioner Kornichuk: I'm going to say all three to be put back, because I'm not going to put myself.....

Chairman Hall: Okay, so you are strictly the plan. So we have one strictly the plan, or are we two strictly the plan, or are you willing to....

Commissioner Pane: I don't know.

Chairman Hall: All right, so door versus window doesn't seem to be real controversial. Sky lights, let's go back to the sky lights. What about the sky lights? Do we need sky lights in this thing to make us feel comfortable? So the door is okay, that has become a window. That's there. That is the door that has become a window. It's a casement window.

Ed Meehan: That's what got approved in March. That's what this Commission saw and said.....

Commissioner Pane: You don't even see the sky lights on there.

Commissioner Aieta: Yes you do, right on there.

Commissioner Pane: They are up near the peak it looks like.

Chairman Hall: Right. They are up near the steeple.

Commissioner Pane: The steeple looks like it belongs on there, that's the way it was presented at the meetings and that is what I would like to see on there. It was presented that way at the special exception. The sky lights to me, and the door, aren't significant.

Chairman Hall: And you can't see the window because it would have been in that corner.

Ed Meehan: As Domenic pointed out, they haven't done this. I don't know why?

Chairman Hall: Are they going to come back and do that next?

Commissioner Pane: They left the opening there.

Ed Meehan: I don't know if they have a footing in there for it, or it's not going to be on a footing, I don't know. Maybe they are going to hang it, or maybe they are going to eliminate it. That would make the neighbors happy, right?

Commissioner Pane: They left the siding out for it.

Ed Meehan: Yeah, the siding goes through there, the fascia goes through there, I feel bad, because this has divided the board and I know, and I don't want to create any animosity with board members, but they are doing things down there that staff doesn't, you know, we're not carrying the water for these guys, I want to make that clear. We're down there every day this week, and most of last week, so, we can't run the project for them.

Commissioner Pruett: So two out of three items so far reading the tea leaves here are insignificant, the sky light and the door.

Chairman Hall: Well, that's what it seems to come down to. It was a no vote because there was no steeple is what it seems to be.

Ed Meehan: Let me just put one more thing on the table. There is a case going on up in Litchfield right now with a synagogue and this goes back to the religious freedom act. "Imposing regulations that would restrict the group's religious practices, unless there is a compelling government interest."

Commissioner Camerota: But we are compelling their own plan.

Ed Meehan: There are other things in that case.

Commissioner Pane: It's just like Commissioner Lenares said, if they came in with no steeple on this, and now they wanted to add a steeple, I'd have a problem with that because it wasn't presented to us at the time of the public hearing. Two attempts, not just one attempt, but two attempts, so we're following their plans.

Chairman Hall: Then for next time what I want to do is to have Ed draw up something for the three items.....

Commissioner Pane: I think we ought to take care of this tonight, Madam Chairman.

Chairman Hall: If you want to do three items tonight, we'll do three items tonight, but this is how I want to go about it, because I think this is the way we can come back together as a board, is that we have this broken down instead of all or nothing, we have each individual item, yea or nay, and then we can take it from there. Is that possible, Ed?

Ed Meehan: Yeah, I'll work on it.

Chairman Hall: Then maybe we can have some agreement around the table before we leave tonight.

The vote to rescind the original vote was unanimous, with seven voting YES.

Chairman Hall: All right, so we can all agree that we can wipe everything clean for the past forty-five minutes or so. We will start again. Do we need three motions, or do we need one.

Commissioner Pruett: One motion, A,B,C, vote on.....

Chairman Hall: To approve the following changes, and then we will have, three individual votes, A, yes/no, B yes/no, C yes/no.

Commissioner Camerota: Can we do that, because I think you should be voting the entire motion.

Ed Meehan: I think you need to vote on three separate things.

Chairman Hall: So three motions.

Commissioner Aieta: It's not the end. It's not the end not because of the Commission, it's because of what is going on, on the site and who is running the project and there is no general contractor, things weren't done right in the beginning, there's a whole list of things. This project has been going on for five years.

Chairman Hall: And it can go until 2013.

Commissioner Casasanta: Could we, so you get down to changes to the architectural elevations limited to, A. elimination of the steeple, then you go through it again, B. two skylights, and then go through it again and go C. changing a pass door, so you are going to have to read this thing three times.

Chairman Hall: Read it three times with a final tag line that, instead of all three, just do one at a time, don't combine pass door and sky lights.

Mike, you are the first one that has to read, and what we are going to do is read it up to limited to the elimination of the steeple, period, and then David, when you read it, it's going to be, you are going to skip over elimination to the elimination of two sky lights, period, and then Michelle you are going to read it so that it says, limited to changing a pass door to a window as shown on revised building elevations prepared.....

Commissioner Casasanta: Shouldn't all of our say, as shown on revised building elevations.....

Chairman Hall: Yes, yes, but you are going to stop at steeple and not do any of the others.

Petition 28-09
580 Church Street
Three Angels Church – Seventh Day Adventist
Special Exception Amendment

Commissioner Casasanta moved that PETITION 28-09 – 580 Church Street, Three Angels Church Seventh Day Adventist Church, Southern New England Conference Association, Seventh Day Adventist, owner, represented by Al Chatman, P.O. Box 330714, West Hartford, CT 06133, request for Special Exception amendment Petition 25-08 condition #4, "changes to architectural elevations limited to the elimination of the steeple as shown on revised building elevations prepared by Zared Design Development and Planning, dated June 11, 2009, Sheets A.4, A.5 and A.6 be approved.

The motion was seconded by Commissioner Camerota.

Ed Meehan: In other words, you are going to end up with the steeple, the sky lights, and the pass door, go. You say, eliminate the steeple, so the sky lights and the pass door stay....

Chairman Hall: No, because that's the next one, and then the second the third motions.....

Commissioner Casasanta: One step at a time, we are asking, do you want to eliminate the steeple?

Commissioner Aieta: No, no, that's not what you read.

Commissioner Camerota: Yes it is.

Commissioner Aieta: What you read was to approve.....

Chairman Hall: Approve the elimination of the steeple.

Commissioner Aieta: If you approve the elimination of the steeple, then you don't get the steeple.

Chairman Hall: Correct.

Commissioner Aieta: So if you vote yes, you don't get the steeple.

Chairman Hall: Correct.

Commissioner Casasanta: A yes vote means the steeple goes.

Ed Meehan: That is what I was trying to explain.

The vote was in favor of denying the motion with three voting yes and four voting no. (Kornichuk, Pane, Pruett Camerota.)

Chairman Hall: So the steeple stays. Now, the second motion.....

Commissioner Pruett moved that PETITION 28-09 – 580 Church Street, Three Angels Church Seventh Day Adventist Church, Southern New England Conference Association, Seventh Day Adventist, owner, represented by Al Chatman, P.O. Box 330714, West Hartford, CT 06133, request for Special Exception amendment Petition 25-08 condition #4, “changes to architectural elevations” limited to the elimination of two skylights as shown on revised building elevations prepared by Zared Design Development and Planning, dated June 11, 2009, Sheets A.4, A.5 and A.6 be approved.

The motion was seconded by Commissioner Casasanta. The vote was four to three in favor of the motion (Pane, Kornichuk, Pruett).

Chairman Hall: So the sky lights are gone.

Commissioner Casasanta: Steeple stays, sky lights are gone.

Chairman Hall: So far.

Commissioner Camerota moved that PETITION 28-09 – 580 Church Street, Three Angels Church Seventh Day Adventist Church, Southern New England Conference Association, Seventh Day Adventist, owner, represented by Al Chatman, P.O. Box 330714, West Hartford, CT 06133, request for Special Exception amendment Petition 25-08 condition #4, “changes to architectural elevations” limited to changing a pass door to a window as shown on revised building elevations prepared by Zared Design Development and Planning, dated June 11, 2009, Sheets A.4, A.5 and A.6 be approved.

The motion was seconded by Commissioner Kornichuk.

The vote was four to three to deny the motion (Pane, Kornichuk, Pruett, Camerota)

Chairman Hall: So now they have to put the door back in for the window?

Commissioner Casasanta: So the only thing that we got rid of was the skylights.

Chairman Hall: That's right. The pass door to a window makes sense.

Commissioner Casasanta: It's resolved.

Chairman Hall: Not really.

Commissioner Camerota: I meant the last vote to be a yes, I voted no.

Chairman Hall: Sky lights gone, pass door window okay. How do we modify a vote.

Commissioner Camerota: Sorry. I can change my vote. Do I have to move, or can we call the vote again? On the last two.

Chairman Hall: Did you do them both wrong, Michelle?

Commissioner Camerota: No, no, I did do them both wrong.

Commissioner Pane: You wanted the sky lights in or out?

Commissioner Camerota: Out.

Commissioner Pane: You wanted they sky lights out, they are out anyway...

Commissioner Camerota: No, in, I'm sorry.

Commissioner Aieta: Michelle, do you want the sky lights on the church?

Commissioner Camerota: I voted to leave them in.

Commissioner Aieta: When you voted yes, you voted to take them out.

Commissioner Camerota: Okay, so I meant to vote no for the skylights and then yes for the door.

Chairman Hall: So the door is okay.

Commissioner Pane: So the steeple and the sky lights were substantial in Michelle's opinion. It was a little confusing.

Attorney Ancona: Put it on the record that it was a mistake of ballot and your vote actually, in substance, went the other way.

Commissioner Camerota: There was a mistake in fact, and my intent was to vote yes on the third version of Petition 28-09, and no on the second reading of Petition 28-09 which was to allow the elimination of the two sky lights.

Commissioner Aieta: So you want the sky lights and you want the steeple, so you voted no. And you don't care about the windows so you voted yes. You voted no, no, and yes.

Commissioner Camerota: Right.

Chairman Hall: Norine, I'm going to rely on you to give us the run-down now. As far as the steeple, does the steeple stay on the church, or is it eliminated.

Norine Addis: No, the steeple stays.

Chairman Hall: The sky lights, do they stay or are the eliminated?

Norine Addis: The sky lights stay.

Chairman Hall: The door that become a window, has that been approved?

Norine Addis: The door is going to stay a window.

Chairman Hall: So one change has been approved, the other two, according to the committee needs to go back to the original form as stated on the plan, so steeple and sky lights are to be reinstituted on the church, according to the vote. Thank you. May this never happen again.

VII PETITIONS FOR SCHEDULING (TPZ October 28, 2009 and November 11, 2009.)

Ed Meehan: You just have the two public hearings to carry over to your October 28th meeting.

IX. PUBLIC PARTICIPATION
(For items not listed on agenda)

None.

X. REMARKS BY COMMISSIONERS

Commissioner Aieta: One remark, Madam Chairman. This was agonizing for this Commission to go through this, I think in the future, on these draft motions, you have to have a motion to approve and a motion to deny and present them, because it looks like it is prejudged. I'm not saying this to go against you, or anything, but I served on the board for a long, long time, and we always had two motions, or we did the motions at the table. When a motion comes in that is already, just one way, it looks like it is a predetermined, and it could come back and bite you in the law suit. Where someone said, this was a predetermined, prejudged because there was only one motion, even though you could vote yes or no.

Chairman Hall: You could deny it.

Commissioner Aieta: I understand that, but in the past we did motions at the table, we tried that, we had two motions, one to approve, one to deny, it looks like it is done in a vacuum when it is only one way, and it's always to approve. It's something to think about.

Commissioner Pruett: I understand what you are saying, but which motion would you read at a hearing.

Commissioner Pane: It used to be when somebody came up, and we never went down the line, a commissioner, a petition would be called, okay, you'd have two motions in front of that commissioner and then depending on how that commissioner felt, he would either read the approved or the disapproved motion, and that would get approved or it wouldn't get approved. Then maybe read the other motion, but at least every motion had an approval and a denial, and the denial was based on conditions and the approval was based on conditions, and no one knows how everybody is going to think, and how everybody wants to vote, so this, that gave an opportunity for the Commissioners to look at both sides and say, oh yeah, okay, yeah, I like this.

Commissioner Aieta: And if someone felt strongly enough about it, they would read the motion, say, Madam Chairman, I want to read the motion and they would read the motion that they wanted to present, either for or against, depending on how they felt.

Commissioner Pane: And sometimes they even changed them. They wanted to add a couple of things, they had the right to read a motion that they wanted, they read that motion and maybe they wanted to add a couple of things.

Chairman Hall: Let me tell you how this comes about. I try to listen to you at every meeting. I also try to get you to speak, so we have an idea as to what direction you are taking. So that when we do have the next meeting, we don't have chaos with many papers, changes, going around the room, trying to get it so that we have some kind of focus. That is the whole purpose of this. Now, if it isn't something that you like, I'm certainly willing to listen but at the same time to have multiple pieces of paper on the table, I'm going to tell you right now, that's not going to happen. What may happen is what we did tonight, in the sense of, if you don't like it, that's what the discussion is for, and then we can change it. If there is a consensus that we don't like it, but that is why I try to get you to give me your opinion.

Commissioner Aieta: Then we should get that consensus before you call the vote.

Chairman Hall: That's what we try to get. Sometimes it backfires, and then again, there are some petitions that are very emotional and when the emotion comes in, that's when we tend to have some problems. For whatever reason, the emotion gets in. So we try to get it as focused as possible, to keep us on track, but as you can see, we can change. There is nothing set in stone here.

Commissioner Pane: It's impossible for you to know what everybody is thinking, especially on controversial issues.

Chairman Hall: That's right, and that is why I try to make you speak.

Commissioner Pane: Yeah, one additional piece of paper for a denial is not that much more paperwork on a desk.

Chairman Hall: Well, not all of them are going to be that way, most of them are cut and dried, that we do know what is happening ahead of time and again, for the sake of moving along, that's why we have been doing it, and if you don't like it, you can deny it and say we'd rather do it this way.

XI. STAFF REPORT

Ed Meehan: Thanks for your input on the Plan of Development and we'll try to wrap it up next time.

Commissioner Pane: Madam Chair, going back to the Plan of Development, after the next meeting, there is going to be another public hearing, after that meeting has been closed, that public hearing has been closed, will you be able to set aside some time, on the agenda for two meetings or so, that we can talk about key pieces of property, and in case some of the Commissioners might want to make some changes, or like we said, we had an opportunity, you were going to give everybody an opportunity to talk about some key.....

Chairman Hall: Right, we're open for that anytime. You could bring that up tonight if you want to.

Commissioner Pane: No, no, I just wanted to know if we were going to set some time aside on the agenda.

Chairman Hall: Anytime. Anytime we bring it up, we can discuss it, that's the whole point. That's why we bring it up.

Commissioner Pane: How much, when is this going to be voted on after the public hearing is closed.

Ed Meehan: Sixty-five days, it's up to the Commission.

Commissioner Pane: So we have basically two meetings to go over any changes, okay?

Ed Meehan: Keep in mind, obviously the election is coming up, and obviously things change in December sometimes. We really wanted to have this public hearing tonight, two weeks ago, but Council had adjusted its schedule in August, so we accommodated them, so it sort of puts you a little bit further back, but.....

Chairman Hall: So if you do have comments, please bring them to the next meeting. Don't wait until after everything and then say, okay, now we want to work on this.

Development Bond – Woodlands of Newington Pulte Homes- Site Walk
Comments.

Ed Meehan: The way I left it with the property manager there from Elite Management, it was her or one of the board members who handed me another list which could have gone back to May, could have been addressed by Pulte, could have been a brand new list. I think what I would like to do is get their engineer on the site with us, with the Town Engineer and myself, and with the property manager. Their engineer has only been on the site once. He pretty much concurred with the list that we developed, the twenty-two or twenty-three items, but he didn't have a chance to really thoroughly get out there. So, I think we need another walk around and we have a million three bond, more than enough to cover what work is there. We're at the point of the year where I think some of these things ought to sit until next spring. They shouldn't be doing more grading and seeding. That's done. They have to get their paving in. They've got to, if they are going to go forward with where the sales office is, we held that in the bond, the sidewalk, there's grading, there's drainage down there, there's a detention basin way in back that we held in the bond, so I know that we talked about a hundred and sixty-five thousand last time, I think after we do another walk around maybe it comes in at two hundred, two hundred fifty thousand, I can't see much more work than that out there. To have a million three on a site like that.....

Commissioner Aieta: It might be impetus enough for them to go ahead and start doing the paving and doing some of the major stuff. I mean, the paving has got to be a major amount of money.

Ed Meehan: It's about forty-five thousand, fifty thousand.

Commissioner Aieta: Oh, is it?

Ed Meehan: Just for that loop. It's a finish course. But we haven't seen the detention basin out in back, with the big pile of top soil. They have more soil than they need. There are some comments there that I don't agree with, some of the homeowners, but I would reserve judgment, see what happens you know, next spring when the grass starts to come in and they do adjust their irrigation. We were dumbfounded when, when we had torrential rain on a Saturday night, into Sunday, we were up there on Monday and the irrigation systems are still running, and it gets kind of slushy. They acknowledged that the placement of some of the irrigation heads and the amount of rain, didn't warrant that. But, I think they still have to petition for street acceptance, they have to give us the as-builts, the warrantee deeds, the drainage easements, there are some hold harmless that we want because they put some irrigation heads in our right of way. We're not going to be held liable for that. So they have work to do, and maybe 165 thousand isn't going to do it, but a million three is a little over the top, I think. But I would like to bring the number back to you after we meet with their engineer.

Commissioner Aieta: Are you going to give to the engineer the list that the homeowners association put together, because maybe there are some legitimate complaints on that.

Ed Meehan: Yeah, that's what I mean, we haven't gotten their input, other than the walk around where we agreed on certain things. His name is Tim Wenzel, he works for Connecticut Property Management, and I'm not sure we are all going to agree, but there are some areas where there are definitely drainage issues. There are holes, they have to take care of the grading.

Commissioner Aieta: I'm just, I've seen a lot of development, and I'm just, I can't conceive, the expense for those houses, those houses sold for almost four hundred thousand dollars, and the condition of the site as far as drainage, and the way that they put the sod in, and the way that they rough graded, I mean, it's horrendous. I can't believe for property like that, the cost to the homeowners, we're going to turn over property to their association it should be perfect when the association gets it. There shouldn't be any punch list of stuff that is left over, it should be all done, especially in a development of this, high standard development like this with those costs to those homeowners. Just looking at the way that they graded it, the grading was wrong. Some of the other issues, I don't know.

Ed Meehan: We can hold the bond until next year, hold the bond until they get it done right.

Commissioner Pane: I'm concerned about those catch basins, whether or not our Town Engineer is going to accept those, and it appears that he is going to accept the catch basins with the concrete cut off the corner of the catch basins and then letting the developer run asphalt up to them. That's never been done before in the Town of Newington. I disagree with it totally and I think this board should have a meeting with the Town Engineer to find out why he's taking, why he's accepting work that is not up to par. Also, on the two far ends, where those swales are, where the water runs down, if you don't put catch basins down there, on pavement, they are going to have major problems during the snow, when the snow comes around. That water will not go through the snow, down to the drainage at the back of the property and those are major catch basins that need to be installed. The Town Engineer didn't seem to think that they were needed, and I have, I'm really, I really have a problem with that. Also, they were going to cut out, they've got a, on one of the driveways, from one of the owners, they've got a sagging from the pipe that never got compacted properly. So now this property owner is going to have to live with the driveway cut which never stands up. In all reality, there should be compaction done properly and then a new driveway for the homeowner. The reason is, it's not the homeowners fault that they did not properly compact the drainage line. So why should he live with a situation that is a band-aid, okay, paying four hundred thousand dollars for a home and then get a band-aid after the fact. I have a big problem with that, and I've got problems with some other landscaping over there, and a bunch of other stuff and I hope that this, I hope that before they pave over there which it looks like they are paving real soon, that this board can talk to the Town Engineer. We used to have the town engineer, the building inspector, the zoning enforcement officer at our meetings so that when we had questions we could get our questions answered right away. It's extremely hard for Ed to go and get these questions answered, then come back, it's takes too long. We used to have the Town Engineer at our meetings, every meeting. We used to have the building official who used to be in charge of the building official, he used to be the head building official, and he used to be in charge of zoning. Now it's a little different, there's a building official, and there's a separate zoning. We never have a chance to talk to our zoning enforcement officer about signage. We have to relay everything though the Town Planner. It's not the proper way of doing it, we should have these people at our meetings all the time.

Commissioner Lenares: They were here before?

Commissioner Pane: Yes, they used to be here before.

Commissioner Lenares: Why aren't they here now?

Commissioner Pane: For some reason, they just stopped.

Commissioner Lenares: I'm asking, I'm the newbie.

Commissioner Pane: For some reason, the last five, six years maybe, they haven't been here.

Commissioner Lenares: That's kind of a good point, Ed takes the brunt of the suggestions and carrying though of things and sometimes it's not his stuff to be working with.

Ed Meehan: Well, a lot of times the building official could sit here through meeting, after meeting and nothing came up, and it's not fair to have them sit here for two or three hours on a busy night, and then they go home. If there is definitely issues that involve building, a lot of times we talk about stuff that has to do with, is he doing the enforcement of the code right, is he interpreting his code right, I'm not sure the whole Commission needs to sit in on that, maybe it's a meeting, maybe a one on one meeting with the building official and the town manager.

Commissioner Pane: It's more the zoning and the Town Engineer. The Town Engineer, we would have lots of questions for the Town Engineer on aspects and the zoning enforcement officer for signage. This Commission is in charge of signage, not our Town Manager.

Commissioner Aieta: Specifically with the Town Engineer, there are all kinds of, every application that comes in you come up with drainage and grading and those are engineering questions that should be answered and he should have a report on each one of these things that come in, and he should give it, so that if we have a question, on his report, we could talk to him directly, not having to wait a meeting and have it relayed second hand or whatever, we should get the answers when we are talking about the specific thing. I don't want a guy sitting around here just to be sitting around.

Commissioner Pane: We can also have them in the beginning of the meeting so, or at a certain point in the meeting and get questions answered on anything and then let them, there's ways of going about it. It can be efficient.

Ed Meehan: I wasn't part of the conversation on the catch basins, I'll catch up on that.

Commissioner Pane: They cut the corners of the catch basins out.....

Ed Meehan: I know what they did, I didn't hear.....

Commissioner Pane: And I asked Tony, I said, Tony are you going to allow them to, are you going to accept that catch basin, for the Town of Newington, are you going to accept that catch basin that way, and he said perhaps. Meaning yeah, he basically inferred that they cut them out purposely so they could run asphalt up to them. So now, the catch basins won't be solid concrete in a square fashion. The integrity of the catch basin, and it's all because they didn't properly protect the catch basins, they didn't ramp them during the winter months. So you know, it's not anybody's fault except Pulte's fault. And you don't give them a hardship because they were lax, and you wouldn't accept something that is, you wouldn't accept something that is below par, we're just getting our roads. We're just getting the roads and you are going to accept something that is below par.

Ed Meehan: I will find out what his reasoning is on that. I wasn't aware.....

Commissioner Pane: The other thing is the catch basins in the back there. He seems to think that you are not going to need a catch basin over there. If you don't install a catch basin over there, the snow when they plow the circle over there, they're going to have massive floods. Massive.

Chairman Hall: Any other comments?

XII. ADJOURNMENT

Commissioner Pruett moved to adjourn the meeting. The motion was seconded by Commissioner Casasanta. The meeting was adjourned at 11:20 p.m.

Respectfully submitted,

Norine Addis,
Recording Secretary